

ADEQUATE FOOD FOR ALL



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Adequate Food for All

The Right to be Liberated from Hunger

A report by FIAN Rajasthan

Gravis



Adequate Food for All
The Right to be Liberated from Hunger

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Written & Edited by
Alice Ashby

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FOREWORD

Availability of adequate food in rural and impoverished communities has been a matter of great concern in many parts of the world including in India and in particular its remote regions such as the Thar Desert. FIAN, globally, has been highlighting the cases of food insecurity and has been advocating for the food rights of communities living in vulnerability and poverty. FIAN India and FIAN Rajasthan in the same vein have been focusing their efforts on food security and right to food advocacy in the country.

FIAN Rajasthan over the last few years has done significant work on highlighting the plights of mining communities and drought impacted populations of Thar in the context of food security. The interventions have included advocacy campaigns, research and publications and interactive dialogues. In our long-term vision, we are committed to actively contribute to the process of enhancing food availability in the Thar Desert.

This booklet is an effort of compiling concepts and thoughts on food security and right to food at a global level, as well with the specific characteristics of the Thar Desert. The hope is that the publication raises awareness among readers and become a critical and helpful tool in planning of policies and programmes.

Prakash Tyagi

Chair-Person, FIAN Rajasthan

1. Introduction

The right to food - adequate to fulfil all dietary requirements - and to be able to feed oneself in dignity is a fundamental universal human right, enshrined in international law and applicable to all people in the world, regardless of race, nationality, gender, caste, age, sexuality, religion or any other differentiating feature. Sadly the latest figures for incidence of hunger and malnutrition worldwide show that this right is far from being a reality for a significant proportion of the world's population. This is unacceptable in a 21st century world where enough food is being produced yet is not accessible to those who need it, while others get far more than their fair share or while large food stocks sit idle in centralised silos. It is the primary responsibility of individual states but also a duty of the international community to realise the right to food for all people worldwide; but currently, despite progress over the latter part of the last century, the world's population is still being failed.

A major reason why right-to-food violations continue to occur is the lack of accountability for such violations as compared to other human rights violations. Unless it reaches the extreme end of the scale: famine and death from starvation on a large scale, hunger is often a hidden issue. The 925 million people estimated by the UN Food and Agriculture Organisation (FAO) in 2010 to be 'undernourished' are being denied their human right to food and yet are often ignored by their national governments and the international community.

Ultimately it will require committed action from states themselves to properly ensure that in time, those currently suffering from lack of access to the means to either produce or purchase food, are able to realise their human right. This will be a long process, but it will be worth the wait. International human rights non-profit organisations such as FIAN International (Foodfirst Information and Action Network) are working to bring this issue to the foreground and make sure it stays in peoples' consciousness, with the aim of pressurising states to take proper responsibility for their duty to ensure all people have access to the means to feed themselves adequately and in dignity. A major aim is to ensure that all people are aware of their human right to be able to either produce or purchase adequate food and to enable them to hold their states to account and claim their right whenever they feel it is threatened.

FIAN Rajasthan is the Rajasthan, India, branch of FIAN International that for the last 20 years has advocated for the fulfilment of the right to food worldwide. FIAN's mission is to expose violations of people's right to food wherever they occur worldwide, to oppose unjust and oppressive practices that prevent people from feeding themselves and to strive to secure people's access to the resources that they need in order to feed themselves, now and in the future. Integral to the mission is the struggle against gender discrimination and other forms of exclusion, especially discrimination based on caste, age and religion¹.

This booklet intends to explain what the 'right to food' means for the world's population, the international legal status of this right and the obligations this puts onto States and the international community. It will also look at the major reasons for right to food violations both globally and more specifically in India; and will explain what FIAN Rajasthan and other

¹FIAN International, 2012

agencies in this region of India can do and are currently doing to combat these violations and the challenges they face.

2. What is the Right to Food ?

The Right to Food asserts that the ability to feed oneself 'in dignity' is a fundamental human right for all people on the planet, regardless of race, nationality, gender, caste, age, sexuality or religion. All people have the right to have regular access to enough nutritionally adequate and culturally acceptable food for an active healthy life. It has been officially classified as a human right and recognised under international law through many international treaties. Although first mentioned in the 1948 UN declaration of human rights under the 'right to an adequate standard of living', the International Covenant on Economic Social and Cultural Rights (ICESCR), adopted in 1966, is generally cited as the first time the right to food was explicitly enshrined in international law. There have since been a number of additions and clarifications to this covenant which have further defined the right to food. As of October 2012 the ICESCR has 160 state parties, while a further 7 countries, including the USA, have signed but not yet ratified the Covenant².

Article 11 of the ICESCR, recognises the “right to an adequate standard of living...includingadequate food” as well as “the fundamental right to be free from hunger”.³

Meanwhile, the UN Special Rapporteur on the Right to Food in 2002 defined it as follows: “The right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear”.⁴

It is important to note that the right to food does not mean simply the right to a minimum ration of calories. This is made clear by General Comment 12 of the Committee on Economic, Social and Cultural Rights (1999): “the right to adequate food shall not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients”.⁵ Another common misconception is that the right to food means just the right to be fed: that States should just provide all citizens with food. This is not the case. The right to food means the right to the means to feed oneself *in dignity*, either by producing or purchasing it.

This hails from the English philosopher, John Locke's (1689), position that all people have the right to the food that the land produces, if and only if, they produce it themselves or they have



The right to food includes the right to produce food for oneself and one's family (Photo credit - GRAVIS)

² Olivier de Schutter, UN Special Rapporteur on the Right to Food, 2012

³ Committee on Economic, Social and Cultural Rights, 1999

⁴ de Schutter, 2012

⁵ ICESCR, 1999

bartered something non-perishable in exchange for the food. Locke also held that it was morally wrong to allow perishable food to go to waste, leading to the obligation of all States to ensure, as far as possible, that all national stores of food are distributed to where it is needed.

So what the 'right to food' means in practice is that it obliges national governments to ensure that the environment exists both for its own people and for all people worldwide to avail themselves of their right and if these conditions are not available to people, then it is the government's responsibility to ensure 'adequate' food is delivered to them. For example, if



Food aid should be only a last resort; States should aim to provide the means of producing or purchasing food so that people can feed themselves in dignity. (Photo credit - USAID, “Haitians Stack USAID's Food Aid in Trucks for Distribution”)

people are to grow their own food, they require enough land, seeds and access to water; while if they are to purchase food, then they require enough money from incomes (so the state must ensure adequate wage and welfare policies) and access to a working market with adequate food available at a reasonable price. However, in the event that one or more of these conditions are unavailable, for example due to war, civil unrest, regional economic collapse or natural disaster, then the government is beholden to ensure that the people affected are still able to have access to food.

The International Committee on Economic, Social and Cultural Rights in its General Comment 12 states that: “The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement”.⁶

3. Key Components of the Right to Food: Availability, Accessibility, Adequacy & Sustainability

Ensuring the right to food requires that people are either able to feed themselves directly through farming productive land or utilising other natural resources; or able to purchase food, which involves ensuring that food is available, accessible and adequate. This entails that the means to produce or purchase food must be available, the food must be both physically and economically accessible to all people and the food that is available and accessible must be adequate to meet all the dietary needs of all, including those who may have increased needs from the basic level, such as pregnant and lactating women. Please see Figure 1 below for the former UN Special Rapporteur for Right to Food, Jean Ziegler's elaboration of these concepts and what they mean for realisation of the right to food for the global population.

The UN Food and Agricultural Organisation (FAO) states that “food security exists when all people, at all times have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life”.⁷

⁶ de Schutter, 2012

⁷ FAO, 1996

Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand. It implies that there must be sufficient food on the market to meet peoples' needs.

Accessibility requires food should be accessible to all people and implies that both *economic* and *physical* access to food is to be guaranteed. On the one hand, economic access means that food should be affordable for an adequate diet without compromising other basic needs, such as education fees, medical care, or housing. On the other hand, the physically vulnerable, such as those who are sick, children, the disabled or the elderly should also have access to food. Furthermore, any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status constitutes a violation of the right to food.

Adequacy implies that that the food must satisfy the dietary needs of every individual, taking into account factors such as age, living conditions, health, occupation, sex, culture and religion. The food must be safe for human consumption and adequate protective measures by both public and private means must be taken to prevent contamination of foodstuffs through adulteration and/or through bad environmental hygiene or inappropriate handling at different stages throughout the food chain; care must also be taken to identify and avoid or destroy naturally occurring toxins. Adequacy also refers to the right to food that is culturally acceptable.

Components Necessary for the Realisation of the Right to Food, Jean Ziegler 2012 ⁸

The right to food also includes the requirement of sustainability. It requires that the availability of adequate food must be assured for the long-term as well as for the current generation. To ensure this, environmentally-friendly agricultural practices should be pursued; while all food distribution schemes need to be cost-effective and thus economically sustainable and creation of 'productive' employment should be a priority for states to ensure their citizens' long-term ability to provide for themselves.⁹

Also integral to the right to food is the participation of people who are already suffering, or who stand to suffer from, threats to their right to food in the design and implementation of policies that affect them.¹⁰ It is important to ensure that any legal action to claim the right to food or to increase the accountability of so-called 'duty-bearers', ensures those suffering from human rights violations are able to be active in the process: every person who knows that their right to food and nutrition has been violated must have access to legal recourse and receive support in claiming their rights.

⁸ Ziegler, 2012

⁹ Dev, 2003

¹⁰ de Schutter, 2010

4 Linking the Right to Food with other Rights: Access to Land and Productive Resources, Access to Water. Access to Employment and Gender

It is also important to note that the right to food and freedom from hunger is not an isolated right; but interrelated with many other basic human rights and economic, social and cultural rights (ESCR), particularly the right to sufficient earning opportunities (employment, social security) and the rights to water and land which combine to ensure people are able to realise their right to food. The right to food can be affected by threats to one or more of these other rights. For instance, livelihood access enables income to purchase food, while access to land and water enables food production.

Compounding the situation, when one of these rights is absent, others may also be lacking, so remote areas with a lack of livelihood options can often suffer from poverty and lack of access to land and water. In areas with agriculture that suffers seasonal upsets due to droughts, farming and selling produce at market is also often the only livelihood option, so people suffer a double whammy with no means of either producing or gaining income to purchase food.

Gender is also a cross-cutting demographic issue for the right to food, as in certain cultures women are more likely to be hungry, are less likely to have access to land and productive resources and are also less likely to have an adequate diet, particularly during menstruation or during pregnancy.

Access to land and productive resources:

Paradoxically, the majority of the hungry and malnourished people worldwide live where most food is produced: in rural areas. This is because large amounts of land are consolidated under the ownership of a few, while the majority of rural dwellers scratch a meagre yield together from small, marginal plots of land or have no land at all. These marginalised farmers have to resort to working for low wages as agricultural labourers on others' farms or in the informal sector. Many smallholder farmers and even whole communities suffer from insecurity of ownership or tenancy rights to the land. Meanwhile, they also cannot compete with the larger land owners in terms of marketing their produce for income. It has been reported that 50% of the people worldwide who are recorded as hungry are marginalised smallholder farmers, while a further 22% are landless.¹¹ The missing access to land and other productive resources is one of the key reasons why people suffer from chronic hunger.¹²



Access to land is important in exercising the right to produce food (Photo credit - GRAVIS)

Meanwhile, they also cannot compete with the larger land owners in terms of marketing their produce for income. It has been reported that 50% of the people worldwide who are recorded as hungry are marginalised smallholder farmers, while a further 22% are landless.¹¹ The missing access to land and other productive resources is one of the key reasons why people suffer from chronic hunger.¹²

Access to Water: Water is fundamental to life. Clean, safe drinking water is required for survival, but it also aids with food absorption.¹³

¹¹ FIAN International, 2012

¹² FIAN International, 2012

¹³ FIAN International, 2012

It is also integral to food production. Whether the water used is groundwater from tube wells or whether the farmers practice rain fed agriculture, crops need water to grow. However, for poorer farmers in remote rural areas, lack of physical access to water, especially enough needed for irrigation, is endemic. Overuse of water in many areas has endangered the long term sustainability of groundwater reserves, with many wells drying up as groundwater levels drop. The contamination of water from industrial activities, such as mining, further increases



Access to water is fundamental to the ability to produce food (Photo credit - GRAVIS)

the scarcity of clean water for consumption and irrigation.¹⁴ Meanwhile, lack of money to pay for water to be delivered also means for many small farmers, all the water they use has to be collected from sources by hand so collecting enough water for irrigation is a challenge. This lack of access to water severely hinders the ability of people in these areas to practice their right to produce food for themselves. It is also only likely to get worse, as the global climate changes and many areas become hotter and drier so water sources become fewer and more sparsely distributed and many areas suffer from more frequent and more severe droughts. Water conflicts are also likely to increase with communities competing for use of ever smaller amounts of water, which may lead to the consolidation of water reserves by richer and more powerful entities, further depriving those at the margins from their much needed resource.

The right to water is not currently specified in its own right in the International Covenant on Economic, Social and Cultural Rights (ICESCR); however the Committee that monitors the implementation of the Covenant (CESCR) has included it as part of the definition of the right to food and the right to health.¹⁵

Access to Employment: The human right to work is enshrined in the ICESCR and it asserts that 'each person has the right to the opportunity to earn his or her living from work which is freely chosen or accepted' and maintains that everyone has a right to 'fair working conditions and decent remuneration'.¹⁶ If this human right is fulfilled, people are assured of sufficient income to purchase food. Livelihood access also influences demand for food and so can influence local markets and entail better food prices. However, the vast majority of the world's population is currently denied this right. In many remote rural areas there are a dearth of livelihood or employment options, so people are denied the 'free choice' of employment. Many people are under-employed so do not receive enough money to live on, while what work there is often requires hard labour in dire conditions. Meanwhile, in urban areas, many migrants from rural areas do not find employment and are forced to scratch a living in the informal sector, which has no legal status, no labour rights and no safety nets in case of sudden lack of

¹⁴ FIAN International, 2012

¹⁵ FIAN International, 2012

¹⁶ ICESCR, 1999

employment. This threatens peoples' means of availing themselves of their right to purchase food.

Gender: Even though international law and many national constitutions now officially recognise gender equality, gender discrimination is still sadly evident when it comes to all the economic, social and cultural rights enshrined under the ICESCR, including the right to food. Due to their traditional role in cooking for their families, women are usually caretakers of the family diet and family health; and are thus often seen as the key to household nutrition and food security. However, despite this, a clear correlation is evident between women and hunger and malnutrition. Women account for 70% of those classed as living in poverty worldwide and women and girls are often specifically or more severely affected when the right to food is threatened.¹⁷



Women are often discriminated against when it comes to access to land and food within the family (Photo credit - GRAVIS)

The factors that lead to women's increased gender-based risk of right to food violations include the fact that despite their high contribution to agricultural production, in most cases women do not possess their own land or have access to resources such as credits or technology.¹⁸ Women are often excluded from inheritance, often have limited control over resources, and can be excluded from household and community decision-making processes.

Women's right to purchase food is also hindered by lower salaries for equal work; low paid employment due to high illiteracy and gender biased labour markets; and discrimination in laws, regulations and programmes.¹⁹ In addition, women's right to adequate food is threatened by intra-household food discrimination practices which mean that women are often the last to receive food when there are shortages and often eat less than the rest of the family, despite their often increased dietary needs during times of pregnancy and breastfeeding.²⁰ Women are also often blamed for population stress on food resources because of their fertility, despite the fact that in large parts of the world, women do not have autonomy over decisions related to the choice, timing and medical support of pregnancy as they have restricted access to birth control and related choices, timing and medical support of pregnancy as they have restricted access to birth control and related choices.²¹

5. The Legal Basis of the Right to Food

The recognition of human rights under international law is the result of centuries of struggle. Finally, in the mid-20th century, the basic human rights were enshrined into law under the 1948 *Universal Declaration of Human Rights*. Nevertheless, although the right to food was originally mentioned in this Declaration under the heading of 'right to an adequate standard of living', it was not until 1966 when it was first explicitly enshrined in international law under

¹⁷ Bellows et al, 2011

¹⁸ FIAN International, 2012

¹⁹ FIAN International, 2012

²⁰ FIAN International, 2012

²¹ FIAN International, 2012

the Article 11 of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, which also deals with other such rights including the right to livelihood and sufficient income. Signatory states agree to use the maximum of their available resources to achieve the full realisation of the right to adequate food, both nationally and internationally.



The Right to Food is enshrined in international human rights law as a human right
(Photo credit - The Nutgraph)

Since then, the right to food has also been included in specific international legal instruments, such as the *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Discrimination against Women* and the *Convention on the Rights of Persons with Disabilities*.

Over the last decade, the obligations of parties to the ICESCR concerning the right to food have been reinforced with recognition in many non-legally binding human rights instruments including declarations, recommendations and guidelines. Overall, from being largely ignored, the last 25

years have seen an evolution in attention given to the right to food, with it becoming recognised properly in its own right under UN and national constitutions.²²

Following the 1996 World Food Summit, convened in Rome, it was agreed that the concept of the right to food be re-visited and more concrete and operational definitions and recommendations be added; and as a result, in 1999 the UN Committee on Economic, Social and Cultural Rights (CESCR), the independent body charged with monitoring states' compliance with the ICESCR, adopted 'General Comment 12' in the normative guidelines on the right to food.²³ This specified that the ultimate objective of the right to adequate food is the achievement of nutritional well-being and therefore that the right to food needs to be understood in a much broader sense as the right to adequate food and nutrition.²⁴ It is important to note that while General Comments are not legally binding, they are an 'authoritative interpretation' of the ICESCR, which is legally binding for the state parties to the treaty.²⁵

In September 2000, the United Nations Millennium Declaration committed countries to halving the proportion of people who suffer from hunger between 1990 and 2015. In the same year, the **post of Special Rapporteur on the Right to Food** was established by the UN Commission on Human Rights to officially comment on any violations of these international laws and the first incumbent in the role, Jean Ziegler took office in 2000 for 8 years. The current Special Rapporteur, Olivier de Schutter, has been in the post since 2008.

On 23 November 2004, the 187 Member States of the General Council of the UN Food and Agriculture Organisation (FAO) officially adopted the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (more usually referred to as the 'FAO's Voluntary Guidelines' or the 'Right to Food

²² Patnaik, 2011

²³ de Schutter, 2012

²⁴ Dev, 2003

²⁵ de Schutter, 2012

Guidelines).²⁶ The Guidelines build on international law and are a set of specific recommendations to states on how to incorporate the right to food into legislation and policies, including recommendations on a range of issues such as natural resources, education, legislation, markets, safety nets and human rights institutions.²⁷

In 2008 the UN General Assembly finally adopted the *Optional Protocol to the ICESCR*, which will establish an individual complaint and inquiry mechanism to investigate and remedy individual violations of the rights covered in the Covenant, including the right to food. This makes the right to food 'justiciable' at the international level.²⁸ At the time of writing, the required 10 countries had just ratified this (Ecuador, Mongolia, Spain, El Salvador, Bolivia, Argentina, Bosnia-Herzegovina, Slovakia, Portugal and Uruguay), so this will now come into force on 5 May 2013.

So the right to food has been substantially provided for within both international legislation and non-legally binding informative treaties. The UN's Food and Agriculture Organisation (FAO) emphasises that 'for the 160 countries that have ratified the *International Covenant on Economic, Social, and Cultural Rights*, the right to food is a legally binding right, on equal footing as the human rights prohibiting torture and protecting free speech and the press... [and the remaining] countries that have not ratified the Covenant should at least recognise their moral responsibility to realize this right'.²⁹

6. Obligations of States

The right to food is legally binding for the 160 states party to the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*.³⁰

Under the ICESCR, national governments bear the primary responsibility for implementing human rights, including ensuring the right to food within their borders. The duty of the state to bear full responsibility for ensuring the availability, accessibility and adequacy of food for its population remains the case regardless of the state's level of development. The Committee on Economic, Social and Cultural Rights asserts explicitly that a state "in which any significant number of individuals is deprived of essential foodstuffs is, *prima facie*, failing to discharge its obligations under the Covenant".³¹ In international human rights vocabulary, states are referred to as 'duty bearers'.

The first obligation that the Covenant prescribes for states who are signatories to the international declarations is the obligation to enshrine the right to food explicitly in national constitutions and laws. In the decades since it came into force, many state parties (including South Africa, Brazil, Colombia, Bolivia, Ecuador, Moldova, Malawi and Belarus) have either directly legislated on the right to food or incorporated it into their respective constitutions. However, this process is still ongoing in many countries, e.g. in India where the right to food is being legislated or in Nepal where it is being incorporated into the constitution; while others

²⁶ de Schutter, 2012

²⁷ FAO, 2012

²⁸ de Schutter, 2012

²⁹ FAO, 2012

³⁰ Patnaik, 2011

³¹ ICESCR, 1999

still have ignored this requirement.³²

General Comment 12 of the ICESCR emphasises that a state is obliged to prove that it is using all the resources at its disposal to try to meet the minimum obligation that *'vulnerable groups have secure access to food'* (ensuring availability and accessibility).³³ Beyond this minimum level of compliance, the General Comment asserts that a state should then attempt to fulfil as far as possible the *'right to adequate food'* (ensuring adequacy); and should ensure that the associated laws, policies and institutions are accountable, transparent and participatory and do not discriminate between individuals.³⁴ However, the legislation does not prescribe specific economic policies and is flexible about the method countries choose to use to achieve food security. The main concern is on ensuring accountability and guaranteeing the participation of the individual in the political process and redress mechanisms.³⁵

The duties and obligations of states as regards human rights (including the right to food) can be categorised into three levels: the obligations to respect, to protect and to fulfil. States can be said to be in breach of these obligations either by any direct action which violates a person's right to food, or by an omission in taking action when required.³⁶

The obligation to 'respect' requires the government to avoid committing any action or designing any policy that would prevent individuals from accessing food. An example of this would be a government putting an embargo on food supplies to a particular area. The obligation to 'protect' requires the government to ensure that the actions of third parties do not deprive individuals of their access to adequate food. Thirdly, the obligation to 'fulfil' includes the obligations to 'facilitate' and 'provide'. It means taking positive steps that strengthen people's access to food and access to resources that enable better nutrition, for example in the areas of land, schooling, jobs and markets (obligation to facilitate). The obligation to provide means direct provision by the state to those who, for reasons beyond their control, don't have the means to access adequate food on their own.³⁷ States have to either make sure that people have enough food, by implementing food distribution schemes, or that each person has an adequate income at least to cover food expenditure and other basic consumption, by implementing social security programmes.

It is important to note that while these obligations relate mainly to ensuring the population *within* a state's national borders are free from hunger, the Covenant also makes clear that states have obligations on an international scale, towards people outside their territories. These are known as extraterritorial obligations (ETOs) and refer to the responsibility of a state for all actions that would affect the right to food of all people, either directly by state authorities, or by representatives of a state (e.g. transnational corporations, TNCs), so long as actions to provide redress in the case of violations do not infringe on the national sovereignty of the state where the violations occurred. For example, the home state of a TNC is subject to the obligation to regulate the actions of 'their' TNC to protect others from any resulting right to

³² Patnaik, 2011

³³ Dev, 2003

³⁴ Dev, 2003

³⁵ FAO, 2012

³⁶ Dev, 2003

³⁷ Dev, 2003

food violations. Individual states can also be held responsible for violations resulting from international trade treaties to which they are signatories (e.g. the European Community's Common Agricultural Policy).

These obligations are important because in an ever-interconnected world, access to food can be affected by a variety of cross-border activities, including but not limited to: international speculation, investment and trade regimes, resource conflicts, land grabbing, and activities that contribute to climate change.³⁸ In this way, victims of right to food violations for which the cause originated with the actions or omissions of the government of another state still have an entity they can hold to account; and from whom they can claim back their right or gain redress.

The UN Special Rapporteur of the Right to Food stated in 2012 that the right to food can only be realised where both national and international obligations are complied with.³⁹

7. Violations of the Right to Food: What is a Right to Food Violation?

Global Hunger



A mother with baby suffering from malnutrition, Tonout Hospital, Niger, July 2012. (Photo Credit - Sean Smith)

Although the human right to adequate food has been enshrined in international law and in many national constitutions and legislations, the realisation of the right to food is still a long way from being guaranteed for all people worldwide. Indeed, the right to food is one of the most widely violated human rights.⁴⁰ Despite enough food being available, in 2009 the shocking figure of 1 billion hungry people in the world was officially reached, mainly due to the double whammy of rising food prices and the effects of the global financial crisis.⁴¹

The FAO announced a figure of 925 million hungry in 2010. However, even these numbers pale into insignificance when compared to the figure for all those suffering from malnutrition, so called 'hidden hunger', which has been estimated at closer to 2 billion people.⁴²

The former figure refers to a violation of the basic right to *'freedom from hunger'*, as described in the original ICESCR in 1966. However, the concept has been inadequately defined and so it is a matter for discussion whether the official figure denoting the violation of this right should include the number of people suffering from malnutrition or include only those at the extreme end of the spectrum: those dying of starvation. Meanwhile, the second figure refers to the *'right to adequate food'* as added in the Committee on Economic Social and Cultural Rights' (CESCR's) General Comment 12 (1999). This is a much higher standard, requiring not only absence of malnutrition, but also the full range of qualities associated with food, including safety, variety and dignity. Many governments of populations suffering from right to food

³⁸ Gibney and Kunnemann, 2011

³⁹ de Schutter, 2012

⁴⁰ FIAN International, 2012

⁴¹ Ziegler, 2012

⁴² Ahluwalia, 2004

violations have ignored this higher standard and appear to base their assessments of their performance in relation to the right to food solely on the first concept.

Notwithstanding these complexities, the former UN Special Rapporteur on the Right to Food, Jean Ziegler has stated that essentially the spirit of international law as regards the right to food is that it is designed to protect the right of all human beings to be free from hunger, food insecurity and malnutrition.⁴³

The FAO supports this view, regarding most cases of hunger as a human rights violation: *“If a public institution, either deliberately or through negligence, is causing hunger then that would be a human rights violation. Discrimination in access to food and resources is also a violation of the right to food. A state that does not deal with hunger and fails to request international assistance when necessary is also violating the right to food”*.⁴⁴ However, they qualify this by stating that *“a state that is doing its best within its financial and institutional capacity to end hunger, malnutrition and inequality, could not be considered in violation of human rights law”*.⁴⁵ Nevertheless, according to the CESCR, if a state claims it is unable to fulfil its obligation of ensuring the right to food due to reasons beyond its control (such as resource constraints), then it has to demonstrate that it has done everything in its power to attempt to ensure full access to food, which includes appealing for support from the international community.⁴⁶

State-Caused Right to Food Violations

All violations of a state's legal human rights obligation of ensuring the right to food are because they have either directly acted against their duties (committed an action) or because they have not carried out these duties (committed an omission). The world-renowned economist Amartya Sen, noted in his 1981 work *Poverty and Famines* that hunger and malnutrition are not necessarily caused by a lack of food *per se* (lack of availability), but by institutional deficiencies that ensure access to 'adequate food' is prevented (lack of accessibility and adequacy).⁴⁷

Violations committed by the state can be a breach either of the state's obligation to respect the right to food, of its obligation to protect the right to food, or of its obligation to fulfil the right to food. For example, a breach of a state's obligation to respect could be an authority interfering in an individual's or community's access to food, or in the availability of food; or a state authority acting in a way that negatively affects the quality or sustainability of food.⁴⁸ Alternatively, a state's lack of compliance with its obligation to protect could be an absence of regulation or supervision by responsible authorities of the activities of private actors (such as companies or TNCS) which resulted in such activities abusing the rights of the victims; or a lack of investigation or adoption of remedies by state authorities when a community has complained or claimed their rights.⁴⁹ Meanwhile the failure of the state to comply with its obligation to fulfil the right to food could include, for example, a state not implementing measures in areas such as agrarian reform, minimum wage policy, credit programs, social transfers, food

⁴³ Ziegler, 2012

⁴⁴ FAO, 2012

⁴⁵ FAO, 2012

⁴⁶ Dev, 2003

⁴⁷ Sen, 1981

⁴⁸ FIAN Rajasthan, 2011

⁴⁹ FIAN Rajasthan, 2011

assistance programs, or regulation of publicity of food products for children, that within its available resources would be achievable; or state authorities not ensuring that all people have been informed of their rights and as a result victims are not able to claim their right to adequate food.⁵⁰ It could also include the situation of a state not supplying food to those requesting support when they are not able to feed themselves.⁵¹

Structural Violations: Structural or systematic violations of the right to food by states can be said to have occurred when they implement a specific public policy that threatens a community's right to food; or when they choose not to implement a specific policy, the lack of which cause people to have been denied access to food or to the means of producing or purchasing it. Examples of these can include a state's lack of rural development policies, a state's water policy not being based on human rights concepts, a state's lack of implementation of environmental policy, or lack of adequate minimum wage law and policy.⁵² The FAO states that hunger and malnutrition are often heavily influenced by structural factors. They assert that poorly defined roles and responsibilities amongst state authorities, systematic social exclusion of the poor and non-responsive public bodies can all contribute to hunger.⁵³

Future Violations

While states are responsible for right to food violations that are currently occurring, they can also be held to account when the right to food is threatened in the future because of their policies. For example, future right to food violation situations include severe malnutrition in a foetus in the womb and in children up to the age of two, due to a mother's lack of an adequate diet, which will adversely affect the child's learning capacities and will negatively affect their school performance when they get older; or the enforced suspension of a child's school attendance because of a lack of food and resources in the family, leading to the deterioration of a child's future employment prospects due to lack of education.⁵⁴ It is important to note that the situation is never static. Violations can occur again at any time and no state should be exempt from monitoring; as for example violations can occur when a state introduces regressive measures, such as cutting of social programs, or reallocating their budget with negative impact for the right to food, or when economic policies lead to decreasing salaries.⁵⁵ States that had previously been in compliance with their obligations can also cause violations when their policy decisions incite situations such as land grabbing that had not been occurring before.⁵⁶

Third Parties and Violation of States' Extraterritorial Obligations

In addition to states, entities that can be responsible for human right to food violations include: a private person, national/transnational companies (e.g. mining, agri-business, publicity and marketing enterprises), landlords, employers, market brokers, financial institutions, or private militias. Peoples' right to food can also be affected by measures adopted by other states or by international or intergovernmental organizations (e.g. the IMF, WTO, the World Bank

⁵⁰ FIAN Rajasthan, 2011

⁵¹ FIAN Rajasthan, 2011

⁵² FIAN Rajasthan, 2011

⁵³ FAO, 2012

⁵⁴ FIAN Rajasthan, 2011

⁵⁵ FIAN Rajasthan, 2011

⁵⁶ FIAN Rajasthan, 2011

and Regional Development Banks).

However, as mentioned earlier, states can be held accountable for the actions of such third parties for whom they are responsible as well as for the results of actions by the state itself that threaten the right to food outside of its borders (known as extraterritorial obligations or ETOs). Violations of a state's ETOs can include situations such as a state's co-financing of a dam or mining project through bilateral or multilateral development assistance that lacks proper rehabilitation and compensation for those affected by the loss of their land⁵⁷; a state's failure to exercise due diligence in World Bank policy advice leading to destruction of livelihoods⁵⁸; or a state becoming a signatory of international agreements such as new trade rules which destroy access to food and resources for certain vulnerable groups.⁵⁹

Violations of the Ability to Access, Produce or Purchase Food

Violations of the right to food include all situations that affect peoples' access to food as well as those that affect peoples' means of producing and purchasing food. Specific situations affecting access to adequate food include food contamination and the loss of traditional foods; factors affecting the ability to feed oneself include the loss of access to natural and productive resources, or annual or seasonal reduction in yield production; while factors that often affect peoples' ability to purchase food include access to markets and credits and their income level.

Violations of access to food : It is important to note that violation of peoples' access to food includes their access to the means and entitlements for obtaining food as well as access to the food itself.⁶⁰ Peoples' access to food can be affected by food contamination, with crops affected by agrochemicals and irrigation, or contamination of food through inadequate cooking and preparation practices of food vendors. State authorities hold the responsibility to protect people from these contamination sources, so incidences of them mean states can be held accountable. Worldwide many people have also suffered the loss of access to traditional foods, for example due to disappearance of traditional seeds or extinction of specific animal species previously used as a source of protein.⁶¹ Access to the means of obtaining food can be affected through loss of access to the land where a particular food exists, aggressive marketing practices by foreign companies to promote their baby food formulas leading to this being the only product available or the increased price of specific food types.⁶²

Violations of the ability to produce food: Access to the main natural and productive resources including land, water and seeds is fundamental to peoples' ability to produce their own food. Violations of this right to the means to produce food have included the loss of access to traditional lands through eviction, a situation which can often involve violence and armed soldiers blocking the access of the community to their fields and plantations; contamination of water sources that would be needed for irrigation; introduction of payment to collect water from water sources to which the community used to have free access before; distribution of inadequate seeds, or even exclusion from a seeds distribution program due to a specific

⁵⁷ FIAN International, 2012

⁵⁸ FIAN International, 2012

⁵⁹ FIAN International, 2012

⁶⁰ Dev, 2003

⁶¹ FIAN Rajasthan, 2011

⁶² FIAN Rajasthan, 2011

political party affiliation. Meanwhile, people can also lose the ability to feed themselves when something affects the crops that they have grown, causing a decrease in their yield. For example, crops can be destroyed in floods or seasonal droughts can mean that the crops do not grow. If effective systems are not in place to ensure alternative means of obtaining food for these people who are temporarily lacking the means to produce their own food, e.g. state welfare programmes, then states will be in violation of the right to food.



A side-of-the-road market in Orissa, India. The right to food means that people should have the ability to purchase food. (Photo Credit - Sean Smith)

Violations in the ability to purchase food:

Peoples' ability to purchase food depends on access to markets and credits. Examples of situations that obstruct peoples' access include blockades that hinder travel to places where local markets are based; increase in credit interest rates or introduction of more difficult conditions to gain access to credit. The other key determinant for peoples' ability to purchase food is their level of income. Situations where income is affected include: large international companies entering a market and able to sell at very low prices, undercutting local producers; decrease of income derived from direct

public decisions, or lack of public supervision of private employers or officials, leading to loss of jobs, salaries below legally defined level, or salaries below the minimum necessary to guarantee access to adequate food; or interruption in the distribution of social welfare from either inefficiency or direct corruption. However, even when income is maintained, dramatic increase in prices of staples or the state's adoption of specific policy measures can affect peoples' ability to purchase enough to feed their families.⁶³

Demographic Discrimination

Often violations of the right to food ensue when specific demographic groups are unfairly targeted or discriminated against, either directly or unconsciously, based on gender, caste, race, age (e.g. the elderly or children), sickness, disabilities, ethnicity, socio-economic status, religion, political affiliation, language, geographical location, national or social origin, or a combination of these factors.⁶⁴

Suffering of Victims of Right to Food Violations

The damage caused to people suffering from right to food violations can be immense. It can be physical (e.g. undernutrition and malnutrition from people eating fewer times per day or from eating lower quality food; or low body weight for a person's age; or stunting), or the results can be mental and psychological, as a result of the effect of violation of human dignity.⁶⁵

8. Global Causes of Right to Food Violations

Other than the actions or omissions of particular states, right to food violations can also be caused by global forces that affect access to food on a vast scale. Nothing was more visible than

^{63, 65} FIAN Rajasthan, 2011

⁶⁴ Dev, 2003

the widespread hunger caused by the food price crises of 2008 and 2010 that resulted in protests and riots in many countries as people vocally claimed their right to be able to purchase food was being violated. This section will look at some key global trends that are affecting peoples' right to food across the globe. These trends include: globalization, global agricultural trade policies, food speculation, food aid and development policies, climate change and the switch to biofuels for energy.

Globalization, Agricultural Trade Policies and Food Speculation

One of the biggest reasons for right to food violations on the global scale has been the globalization of agricultural trade and neoliberal economic development policies that have encouraged deregulation in financial markets, increased access for foreign companies to land in developing countries and increased speculation in agricultural produce. Indeed, food speculation has been cited as the direct cause of the 2008 and 2011 food crises, which have been found to have been caused by inadequate food access as opposed to inadequate supplies.⁶⁶

Food Price Crises of 2008 and 2010: The period 2006-2008 and early 2010 saw huge rises in the global price of food and led to civil unrest on a global scale as the price volatility put food out of the reach of the poorest people in these countries. For example, between 2006 and 2008 average global prices for rice rose by 217%, wheat by 136%, corn by 125% and soybeans by 107%.⁶⁷ Such food price volatility disproportionately affects the most vulnerable groups (smallholder farmers and low income urban and rural populations) and the dramatic rises in these years pushed staple foods out of the reach of these groups. It has been found that these dramatic rises were not just the natural product of market forces and this, combined with the fact that states with people caught in this situation did not do enough to attempt to minimise the effect on local markets, meant that this was an extreme example on a vast scale of a violation of the right to purchase food.

In 2006 there had been a temporary drop in food production growth: for example, wheat production during 2006 and 2007 was 4% lower than in 2004 and 2005.⁶⁸ This was compounded by droughts in Australia and Canada, key grain producing nations, which led to substantially reduced wheat harvests and food shortages; and also by rises in oil prices, which affect food distribution costs. But even this level of production should have been sufficient to feed the world's population and under normal circumstances, food shortages in particular countries would not lead to immediate and huge price volatility in other countries, which should be able to mitigate the problem through resorting to domestic output instead of the more expensive imports. However, trade liberalisation had led to the poorest countries of the world being far more interconnected with agricultural markets than they ever were before, meaning the most vulnerable sections of their societies were left hugely exposed.

Agricultural Trade Policies: International markets ensure that food can travel from areas of food surplus to regions of food deficit, which is fundamental to ensuring the right to food for all. However, in practice the global agricultural trade policies and the rules that underpin

⁶⁶ Bellows et al, 2011

⁶⁷ Steinberg, 2008

⁶⁸ Steinberg, 2008

them can have a huge effect- both positive and negative- on access to food. The global food price crises of 2006-2008 and of 2010-11 have illustrated the dangers for the right to food of an imbalanced development of markets. In May 2008, in a report on the global hunger crisis of that year, the UN Special Rapporteur on Right to Food, Olivier de Schutter, pointed out the negative role of export subsidies and liberalisation of trade, stating that the effect of the opening up of trade was that, particularly in the least developed countries (LDCs), domestic production decreased due to lack of competition with cheaper imports from richer countries with subsidised agriculture.⁶⁹ This meant that global price rises were directly passed onto these countries, which then did not have sufficient domestic production to feed their country's population when they could not afford the food on the open market.⁷⁰ In the same year, Martin Khor from the *Third World Network* revealed that many developing nations have gone from being food-independent to being net food-importing economies since the 1970s and 1980s.⁷¹ This coincided with International Monetary Fund (IMF) and World Trade Organisation (WTO) free market economic policies that pressurised the developing world to abolish farming subsidies, in the interest of trade liberalisation, whilst having no such requirement for farmers in the more developed countries.⁷² The poorest countries have become overly dependent on foreign imports for basic food supplies, leaving some of the poorest people in the world hugely vulnerable to the volatility of agricultural commodities markets.

States that are parties to such trade agreements as the European Commission's Common Agricultural Policy (CAP) that result in distorted local markets in the poorest countries are thus in breach of the CESCR's General Comment 12, which states that: "*strategies for the implementation of the right to food at the national level should address critical issues and measures in regard to all aspects of the food system, including the production, processing, distribution, marketing and consumption of safe food*".⁷³ This means that all signatories to the ICESCR must then create as favourable as possible an environment in which smallholder farmers are able to compete and market their produce. They are also required to ensure that when they negotiate international trade rules, whether bilaterally or multilaterally, they ensure that these rules do not lead to violations of the right to food anywhere in the world.⁷⁴

Speculation: Steinberg (2008) has highlighted the role of professional speculators and hedge funds in driving up the price of basic commodities, especially food, in the crisis years. He claims that the real reason why food prices doubled was speculation in commodity futures following the collapse of the financial derivatives markets in the US and Europe. Food and raw materials were seen as 'quick fix' investments that would provide fast returns; they were called the 'commodities super-cycle' on Wall Street.⁷⁵ He cites evidence that, while globally prices for basic commodities, such as cereals, cooking oil and milk have risen steadily since 2000, the prices escalated dramatically following the financial crisis in the US began to develop in 2006. This price inflation fed on itself, as big profits were made from investments, the more others

⁶⁹ de Schutter, 2008

⁷⁰ de Schutter, 2008

⁷¹ Steinberg, 2008

⁷² Steinberg, 2008

⁷³ Paasch, 2008

⁷⁴ Paasch, 2008

⁷⁵ Steinberg, 2008

invest also hoping for big returns, pushing prices up even further. The price volatility caused by temporary food shortages is good for investors. The problem is that the profits such investors are making have to come directly from some of the world's poorest people, who are living on the edge and for whom even a slight rise in the price of their basic food requirements can price them out of the market.

Globalization and Land Grabbing : One other result of current globalization trends is land grabbing, which has also served to leave some of the most disadvantaged smallholder farmers even more at the mercy of markets and food price rises. Land grabbing was endemic under colonialism, where farmlands were brought under the control of foreign owners and previously independent farmers were instead forced to become agricultural labourers; and this is not a practice that has remained in the past. Today, the perpetrators of this are transnational corporations, aided by foreign governments and policies of market liberalisation and privatisation, but the results are the same: smallholder farmers who cannot compete economically with the more powerful western interests are being deprived of their land and their means of producing food and then being forced to become dependent on such companies to provide them with an income with which to purchase food instead.⁷⁶ In many of these cases, this has deprived local communities of many staple foods which cannot be purchased on the market, but only gathered from the land. It also means that when prices at market increase, these farmers can no longer resort to supporting themselves through subsistence farming.

Food aid and the Green Revolution

La Via Campesina, a global human rights NGO campaigning for the rights of peasants worldwide to be respected, claims that alongside trade liberalisation, food aid policies designed to fulfil the right to be provided with food in emergency situations and the green revolution have also been at the root of the recent hunger crises.⁷⁷ They argue that food aid as practiced over the latter half of the 20th century, while well-intentioned, has been directly responsible for upsetting local markets and disrupting local food production by flooding markets with free or very low cost cereal grain. Meanwhile they assert that Green Revolution in India, while heralded at the time as the key to development for rural farmers by providing access to High Yield Variety (HYV) seeds, has led to increased inequality with more resources becoming consolidated with the already richer and more powerful farmers who just got richer, while farmers with less clout simply lost out, with many having to give up their land and become agricultural labourers on the farms owned by those who had been successful from the programme. They accuse international organisations such as the WTO and the World Bank as well as G8 governments of having been great advocates for these policies and thus call on them to take responsibility for the results.⁷⁸

Climate Change & the Switch to Biofuels

Two further global trends that are leading to large-scale violation of the right to food are the onset of climate change and the development of biofuels as an alternative energy source to oil.

⁷⁶ Mann, 2011

⁷⁷ Mann, 2011

⁷⁸ Mann, 2011

Climate change : Changes in the global climate have been occurring steadily over the latter half of the 20th century and the results and future predictions do not look promising for those for whom a predictable and regular rainfall is vital for their ability to produce food. While there will be strong regional variations in the effects of climate change, in general it is set to cause more unpredictable weather, with increased frequency and severity of droughts and flooding already affecting the availability of fresh water and thus impacting the ability of smallholder farmers to produce enough food to feed themselves and their families. These changes will and are already affecting the most vulnerable marginal smallholder farmers most severely by meaning that there will be higher seasonal variations in their ability to realise their right to food and that the long-term trend is towards making this task ever harder. Sea level rises caused by climatic changes are also already causing salinization of irrigation water in coastal areas, affecting farmers' food production in these regions.⁷⁹ In 2007 the UNDP predicted that by 2080 600 million additional people could be at risk of hunger, as a direct result of climate change.⁸⁰ Many smallholder farmers have not had to register previously with state authorities for support, unless it was an emergency situation; and many live in very remote areas where they are even less likely to receive assistance for the long-term lack of access to water and productive land that they are now facing.

Nevertheless, it is not just the direct effects of climate change that are beginning to affect peoples' right to food worldwide. Indeed, precisely many of the so-called 'solutions' to either aid adaptation to climate changes or to try to slow down the changes, are actually causing bigger problems. For example, many smallholder farmers are losing large tracts of land and access points to water and other natural resources through being enticed into participation in REDD+ projects, which involve setting aside land for maintaining tree cover to soak up some carbon emissions from the atmosphere, taking productive land out of the agricultural system.⁸¹

State authorities will need to be far more thorough in assessing vulnerability of its citizens to potential threats to food from climate change-related events and need to ensure that all citizens, even if living in remote regions, are registered to receive state support to provide food in the event of loss of crop yields. States also need to respond to the fact that these will be long-term changes and thus the solution strategies need to be sustainable and ensure sustainable agriculture can continue even in the face of these challenges. States need to provide more support for agroecological practices by smallholder farmers that can mitigate negative impacts of climate change, such as soil erosion, drought and new and increased incidence of crop diseases; and can increase farmers' resilience.⁸² The IPCC has also reported that such practices help increase soil organic matter and above ground biomass, thus creating new carbon sinks to help minimise climatic changes. Agroecological techniques also involve reducing direct and indirect energy use by farmers, thus minimising further carbon dioxide or other greenhouse gas emissions.⁸³

⁷⁹ de Schutter, 2010

⁸⁰ de Schutter, 2010

⁸¹ Mann, 2011

⁸² de Schutter, 2010

⁸³ de Schutter, 2010

Biofuels: Another new development that is beginning to contribute to the violation of global right to food is the large scale production of agrofuel or 'biofuel' crops. Ostensibly developed in the interests of protecting the environment, whilst also creating a viable alternative energy source to increasingly depleted, expensive and insecure oil reserves; biofuels have caught the attention of big businesses who see it as a new industry capable of generating large profits, thus generating large investments in the sector. As a result, huge tracts of land worldwide have been switched from growing food crops to producing ethanol, aimed primarily as an alternative to oil-based gasoline.⁸⁴ Such biofuels require large economies of scale; and profitability is dependent on the use of vast tracts of land, with the diversion of crop production from meeting food needs to meeting energy needs contributing to tightening pressure on agricultural stocks.⁸⁵ The FAO stated in 2011 that the “*promotion of biofuels without taking proper advice on their possible implications to food security is directly threatening the right to adequate food*” through the loss of land and livelihoods to the vulnerable producers and from the impact on prices due to decrease in agricultural crop production.⁸⁶ Also, it is often the people who belong to the marginal groups that are forced to give up their land to biofuels investors and they are traditionally marginalised with weak capacity and lack of resources to negotiate and properly defend their rights against powerful biofuels industry representatives. Jean Ziegler, the former UNSpecial Rapporteur on the right to food asserted in 2011 that “*the switch to biofuels at the expense of traditional forms of agriculture is nothing less than a crime against humanity*”.⁸⁷

9. The Status of the Right to Adequate Food in India

As the country of operation for FIAN Rajasthan, this booklet will throw a particular spotlight on the status of the right to food in India, as while based on economic growth and food production figures, India should be self-sufficient in terms of providing food for its population, large sections of the population are not benefiting from this and the state is in breach of its obligations to guarantee the right to *adequate* food for all people within its borders.

The Right to Food in Indian Legislation: While India is a signatory to the Universal Declaration of Human Rights and became a party to the International Covenant on Economic, Social and Cultural Rights in 1986 and the Convention on the Rights of the Child in 1990, it currently has no explicit reference to the 'right to food' in its constitution or other national legal documentation. Within the Constitution of India: Article 21 guarantees a fundamental right to life which includes the right to health and its determining factors, including food; Article 39 obliges the State to direct its policy towards ensuring that the citizens, men and women, equally, have the right to an adequate means of livelihood; while Article 47 makes it one of the primary duties of the State to '*raise the standard of nutrition*' and the standard of living of its people and to improve public health.⁸⁸ However, none of these goes so far as to enshrine in their national law the 'right to food' or the 'right to adequate food' for the Indian people.

⁸⁴ Steinberg, 2008

⁸⁵ de Schutter, 2010

⁸⁶ FAO, 2011, in de Schutter, 2010

⁸⁷ Mann, 2011

⁸⁸ Dev, 2003

Nevertheless, since 2001 India's Supreme Court has been very active in passing laws that aim to strengthen Indian peoples' ability to realise their right to food in a number of landmark rulings that collectively have become known as *The Right to Food Case*. Please see the boxed text below for a more detailed description of these rulings. The Court ordered the creation of the position of Supreme Court Commissioners who were given the responsibility of overseeing the implementation of the Supreme Court's orders in relation to the Right to Food Case. The Case also spawned the creation of the Right to Food Campaign (RTF Campaign) in India, which has since actively pressurised the Indian Government to take full responsibility for their obligation to realise the right to food for all its citizens and to be more explicit in enshrining the right to food in Indian law. In October 2012 the Indian government finally announced their intention to 'give the right to food to the Indian people' by introducing a new law, the National Food Security Bill; but this is yet to come into force at the time of writing.

India's Supreme Court and the 'Right to Food Case'⁸⁹

Since 2001, the Supreme Court of India has passed over a hundred orders in the longest continuing mandamus on the right to food anywhere in the world. This has become known as the 'Right to Food Case' and it spawned the Right to Food Campaign (RTF Campaign). This case, through the Supreme Court orders: universalised school meals for 120 million children; introduced child feeding services for 160 million children under the age of 6; brought maternity entitlements and pensions for widows, disabled people and the aged; created the conditions for the passage of the universal rural employment guarantee programme (NREGA), which guarantees all Below Poverty Line (BPL) rural families 100 days of work, usually on public works projects, at centrally-determined minimum wages; helped create a series of legally justiciable rights for the urban homeless; and sought to make the Public Distribution System (PDS), which provides 600 million Indians with subsidised food grains, more accountable.

Case Study - India's Supreme Court and the Right to Food Case (BirajPatnaik, 2011)



A nurse in a nutrition centre in Madhya Pradesh, India, measures the weight of a malnourished child. (Photo Credit - Nick Cunard/DFID)

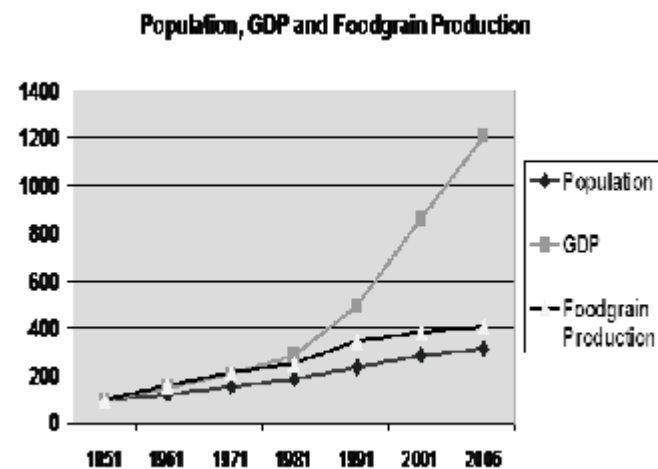
Violating the Right to Food in India: Despite significant economic progress, with India being the world's second fastest growing economy, the country still currently lags behind the rest of the world when measured on most human development indicators.⁹⁰ Although in most cases the situation has improved slightly in recent decades, starvation and chronic hunger still persist in large sections of the population. India contains half of the entire world's hungry people. More than 50% of Indian women and 70% of children are anemic; a third of all babies are underweight at birth; 46% of children under the age of 5 are undernourished; while only about 20% of infants and

⁸⁹ Patnaik, 2011 (in Right to Food and Nutrition Watch, 2011)

⁹⁰ Patnaik, 2011

young children are being fed optimally.⁹¹ In fact, *the turn of the millennium even saw declining calorie consumption especially in the bottom 30% of the population: in 1999-00 the calorie intake for rural populations was recorded as 2,030kcal per day, while for the bottom 30% it was 1626kcal per day, both of which are well below the recommended norm of 2,400 calories.*⁹² In 2010 India was ranked 67th out of 84 countries in the Global Hunger Index and 119th out of 169 nations in the Human Development Index.⁹³

It shouldn't have to be like this. Both India's GDP and food grain production have risen faster than the growth in its population over the last 50 years (despite the huge population growth rate); the country's food stocks have increased to more than 65 million tonnes (see Figure 13, below); and for those who cannot produce or purchase their food on the open market India has the largest government food schemes in the World, with the food subsidy nearing INR 30,000 crores.⁹⁴



India's Growth in Population, GDP, Food Grain Production 1950-2004 (FAO, 2004)⁹⁵

National Self-Sufficiency in Food Production : When India gained its Independence in 1947, it emerged from the spectre of successive famines that hit the India's population during the late 19th and early 20th centuries under British rule. While for two decades following independence India remained a food deficit country, India's immense achievement is that by the 21st century, it has ended the incidence of these extreme famines (the last was the Bengal famine of 1943); and it has not just achieved self sufficiency of food grains at the national level, but has also now has a surplus of food grains.⁹⁶ This was mainly achieved through what was known as the 'Green Revolution', launched in the 1960s, which mainly involved the introduction of high yield variety seeds; and the development of infrastructure for irrigation, seed supply, food storage and agricultural marketing. As a result of these measures, national food grain production increased from about 50 million tonnes in 1950-51 to around 211 million tonnes in 2001-02; while the production of oilseeds, cotton, sugarcane, fruits, vegetables and milk also noticeably increased.⁹⁷

⁹¹ FAO, 2004
⁹² Dev, 2003
⁹³ Patnaik, 2011
⁹⁴ FAO, 2004
⁹⁵ FAO, 2004
⁹⁶ Dev, 2003
⁹⁷ Dev, 2003

However, a closer look at the growth rates exposes some disturbing trends that reveal that this trajectory is not entirely smooth. For example, compared to the 1980s, the growth of agriculture decelerated during the 1990s. The growth rate of food grain production declined to 1.92% pa from 3.54% pa; while the growth rate of productivity in food grain decelerated to 1.32% in the 1990s as compared to 3.3% in the 1980s. Meanwhile, the overall growth rate of crop production declined from 3.72% to 2.29% and productivity from 2.99% to 1.21% pa⁹⁸. In addition, the per capita net availability of food grains increased just 10% over the last 50 years; while per capita availability of pulses actually declined significantly during the same period⁹⁹. The reasons for this have been given as accumulation by the central government of 60 million tonnes of food grains and due to increased exports of both food grains and pulses. India has also not achieved per capita self-sufficiency of non-cereal food like fruits, vegetables, milk, meat and fish.¹⁰⁰

Regional Variations: Moreover, while at food availability at the national level is not a problem; a closer look reveals large regional disparities, with some states performing better than others on right to food indicators.¹⁰¹ For example, in certain states (Kerala, Orissa and West Bengal), peoples' protein intake has steadily increased since the 1970s; while in other states, especially the in the north-east or remote rural tribal areas of Assam, Himachal Pradesh, Punjab, Tamil Nadu and Uttar Pradesh, average protein intake has declined¹⁰². Meanwhile Tamil Nadu, Mizoram, Manipur, Madhya Pradesh and Orissa have been found to have the highest incidence of severe child malnutrition.¹⁰³ The KBK (Kalahandi-Bolangir-Koraput) region in Orissa has been ranked as one of the most highly food insecure region in the country.¹⁰⁴

Urban-rural disparities are also evident: indeed, it has been found that across all states in India, rural areas are more highly food insecure than urban areas. In rural India, there is a particular problem of lack of physical accessibility to the means to produce food, with poorer farmers scratching a living from increasingly small-sized land holdings; and from lack of access to water for irrigation of crops combined with a lack of viable livelihood opportunities to provide an income to purchase food instead. For example, in 2003 it was found that in rural areas only around 23% of households received their water from tap sources, while another 49% were able to collect water from a tube well hand pump. This left 18% of the rural population with no direct access to irrigation water.¹⁰⁵ Lack of security of land tenure is a big problem in India, except for West Bengal. Rural populations in India also suffer from lack of economic access to food due to low wages. The growth rate in real agricultural wages nationally declined from about 5% pa in the 1980s to 2.5% pa by the 1990s.¹⁰⁶

⁹⁸ FAO, 2004
⁹⁹ Dev, 2003
¹⁰⁰ Dev, 2003
¹⁰¹ Dev, 2003
¹⁰² Dev, 2003
¹⁰³ Dev, 2003
¹⁰⁴ Dev, 2003
¹⁰⁵ Dev, 2003
¹⁰⁶ Dev, 2003

Vulnerable Groups: Meanwhile, even within regions, there are those who are more vulnerable to right to food violations than the rest of the population, such as the elderly, pregnant and lactating women, children and people from the lower castes, especially those from the scheduled castes and tribes; resulting in increased rates of malnutrition among these groups.



Women in India often suffer from intra-household discrimination in access to food, with women receiving only the leftover food once the male family members have eaten. (Photo credit - GRAVIS)

Women : Diet surveys have shown that in young children, dietary adolescent girls and pregnant women, the intake of Vitamin A and other micronutrients is significantly lower than the recommended dietary allowance.¹⁰⁷ Another important factor in the violation of women's access to food is the phenomenon common in India especially amongst the rural poor, of intra-household disparity in food consumption, indicative general food scarcity. Under this system, the (usually male) breadwinner receives sufficient food, the children get the next share, while the women receive only what is left, often nothing or very little. Furthermore, between the children, the boys are given preference to girls in

the pecking order. Interestingly, some studies have shown that intra-household food distribution inequality is more of a problem in north India, as compared to southern India¹⁰⁸. There is also considerable gender bias in land ownership, with women not able to inherit land or to own land, thus being denied control over the production of food for themselves or their families, and leaving them highly dependent on the men in their family for their basic needs.

Scheduled castes and Tribes: The caste system in India still plays a big role in distribution of resources within society, particularly in the rural areas. Thus a large number of the farmers who lost out from the Green Revolution policies were members of the Scheduled Castes. Currently they are the largest group living below the poverty line; they are often now landless, with no access to productive assets; and have little access to the limited employment opportunities. Similarly, the poverty gap between Scheduled Tribes and the rest of the population increased during 1990s, with the percentage of those living below the poverty line among Scheduled Tribes being reported as 45.86% and 34.75% in rural and urban areas respectively.¹⁰⁹

State-run Food Welfare Programmes:

Ironically, considering the above reported figures for the manifestations of lack of realisation of the right to food, India actually has the largest government food schemes in the world, aimed at ensuring those denied access to either the means to produce or to purchase food through the normal system, should still have access to an adequate food intake. These programmes include *Entitlement Feeding Programmes* such as ICDS (serving all children under six and pregnant and lactating mothers) and MDMS (serving all primary school children); *Food*

¹⁰⁷ Dev, 2003

¹⁰⁸ Dev, 2003

¹⁰⁹ Dev, 2003

Subsidy Programmes, such as the Targeted Public Distribution System (which provides 35kgs/month of subsidised food grains to Below Poverty Line BPL families) and Annapurna (providing 10kgs of free food grain for the destitute poor); *Employment Programmes* such as the National Rural Employment Guarantee Scheme (NREGA- which guarantees 100 days of employment at minimum wages to BPL families); and *Social Safety Net Programmes* such as the *National Old Age Pension Scheme* (providing a monthly pension to BPL families) and the *National Family Benefit Scheme* (compensation in case of death of the bread winner to BPL families).¹¹⁰

However, these social welfare programmes have been criticised for not going far enough and for their inefficiency in reaching all those who really need assistance. Firstly, unless it is through the NREGA, India does not guarantee a minimum wage. Meanwhile, the NREGA itself has been criticised for the fact that it only guarantees 100 days of work, leaving those eligible families to struggle for the remaining 265 days per year, while also preventing them from gaining permanent employment. While the National Benefit Scheme compensates families in the case of death, there is no state-run social insurance scheme in case of either short or long-term illness of the breadwinner; it is normally assumed that this will be provided by the employer. However, people are often forced to work for unscrupulous companies that provide no compensation in the case of occupational diseases, due to lack of alternative employment opportunities (see the Sursagar Mineworkers case study below). There have also been difficulties in rolling out some of the welfare programmes in practice due to opposition from certain states. For example, in November, 2001, the Supreme Court ordered all states to introduce mid-day meals in all government primary schools but Bihar, Uttar Pradesh and Jarkhand resisted and were still in violation of this order in 2003, while Karnataka and Chattisgarh only partly complied. Meanwhile, in Rajasthan lack of access to quality food grains hampered the implementation of the scheme.¹¹¹

However, the largest criticism regarding its impact on enabling the right to food is levelled at the implementation of the Public Distribution Scheme (PDS). This system works through a network of 'fair price shops', which supply essential commodities, such as rice, wheat, edible oils and kerosene at below market prices to registered below poverty line (BPL) families. Most critics focus on the fact that huge numbers of those who should be eligible to receive assistance under the Scheme are not gaining access to it. Recorded figures on access are calculated on the percentage of households making purchases in the official Fair Price Shops, through which the PDS distributes its food. Government figures from 1999-00 show that nationally the PDS is accessible to only about 30% of Indian rural households for rice and just 17% for wheat. Meanwhile, regional variations in these figures range from, for rice, 75% access in Tamil Nadu to only 17% in West Bengal; and for wheat, 34% access in Gujarat to a pitiful 0.21% in Punjab. It is a general trend that access to the PDS in poorer states, such as Bihar, Madhya Pradesh and Uttar Pradesh is low. Government figures for Rajasthan in the same year show that in rural areas 0.61% had access to rice and 5.46% had access to wheat, compared to the national rural average of 32.38% and 16.59% respectively; while the figures for urban areas were just 0.28% for rice and only 2.41% for wheat, compared to the national urban average of 20.28% and

¹¹⁰ FAO, 2004

¹¹¹ Dev, 2003

15.12% respectively. Reasons for this lack of access have been reported as lack of knowledge amongst remote populations of their rights (and therefore lack of registration as BPL families); and poor targeting indicators used by the responsible authorities, including income-based means tests, which have been criticised as being inaccurate and leading to both the non-inclusion of some of the poorest households and the inclusion of some non-poor households as eligible for assistance through the scheme.

Other criticisms of the PDS include the incidence of diversion of supplies from the system, for example figures showed that in 2003, nationally 36% of wheat supplies, 31% of rice supplies and 23% of sugar supplies were diverted away from the system. Reported incidences were found to be higher in Northern, Eastern and North Eastern regions.¹¹² Meanwhile the system has been found to be ineffective, as many people report being turned away by fair price shops because the shops have run out of supplies, or only being supplied with cooking oils and not food grains; and the system is also hugely cost inefficient at reaching the poorest 20% of the country's population, with a study in 1994 by Parikh finding that that for every rupee spent, less than 22 paise reached the poorest households in all states, except Goa and Daman and Diu.¹¹³

Others have suggested that alternatives, such as food stamps, should be considered instead as a more effective way of delivering food to those who most need it. However, the Government's intention is to continue with the PDS, with the recently announced National Food Security Bill aiming to, if passed into legislation, increase the subsidies to the food supplied through the system to make it more affordable for the poorest households and to make it an obligation that all shops have sufficient supplies to serve all those who are eligible to receive assistance.

Examples of right to food Violations in India

Please see the below boxed text for some examples of the violations of the right to food in India in recent years.

Manatu Block, Palamau District, Jharkand, India¹¹⁴

A public hearing on hunger and the right to food held in Manatu block of Palamau district of Jharkhand following starvation deaths revealed gross irregularities in food related programmes and a disastrous level of public services. Thousands of hunger-affected people assembled for a public hearing on hunger and the right to food. A widow, who testified at the public hearing in Manatu, had not eaten for three days and was too weak to stand up. A team comprising members of the Gram SwarajAbhiyan and the Right to Food campaign visited Kusumatand village in Manatu. The fact-finding committee went to investigate three starvation deaths in the village, but found that the entire village lived in a condition of permanent semi-starvation. Despite wide media coverage, the government had not taken any serious steps to help the villagers. The main conclusions of the fact finding committee were the following:

- The people of Kusumatand (Manatu Block) live in abject poverty. Many people are in the state of permanent semi-starvation. They drink highly

¹¹² Dev, 2003
¹¹³ Parikh, 1994 (in Dev, 2003)
¹¹⁴ Bhatia and Dreze, 2002 (in Dev, 2003)

polluted water. They are also deprived of proper facilities such as primary education, health care, and the public distribution system.

- Lack of food and clean water created a horrendous trail of illness and death. The starvation deaths in the village were directly related to the lack of food and drinking water.
- The government took no serious action to address the problem. Development works were at a standstill. There were no drought relief programmes even though the area is affected by drought. Even after the hunger deaths and received wide media attention, the government remained passive. Instead of taking the action to help the people of the village, the government dismissed the reports as 'baseless stories' and attempted to muzzle those who reported the problems.
- Supreme Court orders relating to the right to food (e.g. PUCL vs. Union of India and ORS) were being grossly violated in Kusumatand and the surrounding villages. For instance, the PDS was non-functional and no mid-made day meals were being given in the local schools. No attempts had been made to prevent hunger deaths.

Case Study - Manatu Block, Palamau District, Jharkand, India (Bhatia and Dreze, 2002, in Dev, 2003)

Sursagar Mineworkers, Jodhpur District, Rajasthan, India¹¹⁵

Rajasthan, is the largest state in India and is called the state of mines and minerals. After agriculture, mining is the second biggest trade of the State, making revenue of around 6,450,000,000 Indian Rupees (INR). There are more than 12,000 mines and around 20,000 quarries located in Rajasthan employing 325,000 people. This is an official number based on leases the Rajasthan state has issued for using mines. Besides the 32,000 official registered mines, there are estimates of thousands of other unofficial mines/quarries that report no annual revenue. In total, independent studies by the National Commission on Labour estimate that 2,000,000 people currently work in the Rajasthanian mines. The size of the mines ranges from 2 hectares (ha) to more than 1000ha. The number of employees can range from 1 to over 100. Most of the mines use manual labour and primitive tools, like chisels and hammers for extracting the minerals. Some of the larger mines are semi-mechanised, having some machines for moving the big slabs of marble.

The Sursagar Mines lie just outside the city of Jodhpur in Rajasthan. The vast majority of the workers at these mines, which include both men and women, are migrants from villages across the Thar Desert, who have resorted to this work as their only livelihood option, as many either do not possess any land or their land has failed to feed them or their families properly due to the harsh climate and increasing incidence of droughts so they have had to leave their villages. The majority of the workers belong to the scheduled castes, scheduled tribes or to other poorer sections of society. They are either illiterate or have only studied up to some primary classes and the high illiteracy level makes them more susceptible for degradation of their economic status. Poverty, in combination with the failing of social welfare programmes like the Public

¹¹⁵ FIAN Rajasthan, 2011

Distribution System (PDS) also forces children to work in the mines from a young age, preventing them from obtaining an education and sustaining their family's vicious circle. The workforce is composed of approximately 60-65% men, 20-25% women and 20% children. The men normally do the actual mining and the heavy work, while the women and children are involved in loading the small broken pieces in the truck or helping to clear the initial earth and rubble. This difference is also reflected in the wages, men on average earn 5-10 INR more than the women.

The two million people working in the mines of Rajasthan are risking their lives and damaging their health trying to make a living. The average daily wage is just 45 INR (€0.80); skilled workers earn about 60 INR, unskilled ones 35-40 INR a day. This would hardly be enough to support a four-member-family, the average in the west, but in Rajasthan the average family size is six. This is all the workers have available to them to feed themselves and their families. Approximate prices for food in the area include: 1l cow's milk: 14 INR; 1l buffalo's milk: 18 INR; 1kg rice: 10-15 INR, depending on quality; 1kg sugar: 21 INR; 1kg flour: 16 INR; 1kg salt: 15 INR; 1kg potatoes: 7 INR. Many of these prices vary seasonally.

The daily diet of a labourer in the mines consists of chapattis with pulses and onions or chillies, while a few will also have milk and vegetables. However, most of the workers lack a fully balanced diet because of a total lack of fruits and other nutritious foodstuff in their daily diet. According to the National Sample Survey Organisation (NSSO) a person living in rural areas should obtain 2,400kcal per day. People living on less than 2,400kcal per day, like the mineworkers, therefore fall below the rural poverty line.

The mineworkers are forced to work under bad health and safety conditions because of lack of any other alternative than starvation. This fact points to severe shortcomings of state welfare systems in the area - obligatory under the unconditional human right to food - and the failure of agrarian reform.

The mineworkers are also unable to access effective legal redress mechanisms to make the employers comply with the legal provisions for compensation of the disabled or the families of the deceased.

India is a state party to the International Covenant on Economic, Social, and Cultural Rights and therefore duty bound to fulfil the right to adequate food for these mineworkers and their families. India fails to make the employers comply with the rules and regulations meant to safeguard the workers' human right to food. If the indirect guarantee of the right to food through compensation from the side of the employers is not effective, India herself is under an obligation to fulfil access to food and health services to the victims.

Case Study - Sursagar Mineworkers, Rajasthan, India (FIAN Rajasthan, 2011)

10. Global Case Studies of Right to Food Violations

Having looked at the status of the realisation of the right to food in India, this section will take a brief look at the situation in other parts of the world, using case studies from the *Right to Food and Nutrition Watch* 2011 publication. The continents that currently suffer from the biggest food-related problems are Africa, Asia and Latin America, but it must also not be forgotten that right to food violations can also occur in richer continents, as shown in the example of Switzerland in Europe. However, the current situation of the right to food varies widely both between continents and within regions.



Countries by percentage of population suffering from undernourishment. Note the highest concentration of malnutrition in sub-Saharan Africa and the relatively high levels in the Indian subcontinent and southern Asia. (Picture Credit - Lobizon)

As outlined in previous sections, examples of right to food violations can include, but are not limited to: destruction of resources, eviction, displacements of farming or indigenous communities for the benefit of companies involved in mining, oil or gas extraction, or for the exploitation of land or forest resources, payment of inadequate wages, corruption of authorities, discrimination in access to services, abuse of a dominant position in the market, inadequate propaganda affecting the adequacy of food intake, abuse of property rights regarding traditional seeds, or introduction of genetically modified products which causes dependence of smallholder subsistence farmers on specific pesticides or agrochemicals, or lack of implementation of food assistance schemes.¹¹⁶

Please see the following case studies for a selection of examples of the status of current right to food and violations that have occurred in each of the four continents mentioned above.

Africa: In Africa more than half the population does not have access to adequate food and every third person in Sub-Saharan Africa suffers from chronic hunger.¹¹⁷ Despite agriculture playing a prominent role in most African countries' economies, a chronic lack of investment since the 1980s, policies implemented under the World Bank's Structural Adjustment Programmes (SAPs) and the largest global incidence of land-grabbing have led to agricultural production not keeping up with population growth.¹¹⁸ Africa has also long been the focus of many of the world's long-term food aid efforts, with the unintended consequence of the undermining of local production efforts.

Africa is home to one of the regional human rights institutions, the Africa Court on Human Rights; most African states have ratified several legal regional and international legal instruments, including the ICESCR, the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child; and the continent saw Maputo Declaration on agriculture and food security signed in 2003, in which signatory states committed to allocating at least 10% of their national budget to agriculture and rural development policies.¹¹⁹ However, while this may seem encouraging, in practice the right to

¹¹⁶ Golay, 2011

¹¹⁷ Akplogan-Dossa, 2011

¹¹⁸ Akplogan-Dossa, 2011

¹¹⁹ Akplogan-Dossa, 2011

food remains widely unrecognised and seldom respected with the widespread lack of implementation of one of the key stipulations of the ICESCR of including the right to food in national constitutions and legislation. As a result, right to food claims are an arduous process on the continent and many cases simply languish in the courts or never get that far.¹²⁰

Case Study - Niger (ANoRF-Niger, 2011)

Case Study: Togo¹²¹

Currently emerging from a protracted democratisation process, Togo has recently seen its authorities work to improve the country's (historically poor) human rights record with a series of policies and programmes, some of which directly concern the right to food. Considering its agricultural production potential, Togo should be self-sufficient in terms of food production. However, food insecurity and chronic malnutrition affect a large part of the population, especially in the poorest, mainly rural, regions of the North of the country. It is also these populations who would become the main beneficiaries of rural development policies geared towards the right to food.

The Togolese Constitution does not contain any explicit reference to the right to food. However, Article 140 stipulates that treaties or agreements regularly ratified or approved have, from the time of their publication, a superior authority to that of national laws. Togo is hence obliged to implement, notably, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Indigenous and Tribal Peoples Convention.

In practice, the transposing of these treaties into national law remains problematic. The main laws governing land tenure are outdated, making them virtually impossible to implement, and it is imperative that they be revised to reflect current socio-economic realities. Land tenure remains widely regulated by customary law. Inheritance constitutes the main mode of access to land and women are, for the most part, excluded. The general lack of written documents certifying ownership is a source of conflict and forced evictions. Moreover, fast-increasing land grabbing by wealthy and powerful city dwellers is threatening Togolese agriculture. According to the law, foreigners do not have the right to acquire land in Togo, but communities suspect Togolese landowners of buying land in order to make it available to them. At this pace, rural communities will soon be dispossessed of their lands to the benefit of large private properties.

Several cases of harassment and even murders of indigenous farmers claiming their right to natural and productive resources have been reported, but seldom examined in court. Likewise, indigenous peoples' right to free, prior and informed consent concerning projects on their traditional lands and territories has notably been flouted in the case of phosphate mining projects and the Bangeli iron mine. Given the difficult working conditions for civil society organisations in Togo, there is a lack of documentation on these cases of violations and communities struggle to mobilise to claim their rights.

The State's lack of accountability and reaction towards these cases of human rights violations can be explained partly by the dearth of the means (both financial and technical) and of

¹²⁰ Akplogan-Dossa, 2011

¹²¹ ANoRF-Togo, 2011 (in Right to Food and Nutrition Watch, 2011)

competent staff available to the authorities, particularly the judiciary. In addition, institutions are characterised by a relatively high level of corruption. In these conditions, the effective implementation of human rights, including the right to food, remains difficult to achieve, all the more since this right is still widely unknown to most officials and people in charge of relevant institutions. The same can be said of the development of recourse and appeal mechanisms for administrative decisions affecting the right to food.

As part of a modernisation programme for the judiciary, the State plans to train additional magistrates, but the development of a proper communication strategy on the right to food would be necessary in order to better inform not only the officials responsible for the realisation of this right, but also the populations and individuals who are entitled to it. The Poverty Reduction Strategy Paper (PRSP) also includes plans to redefine land tenure policy so as to integrate customary laws in a legal framework that would protect the rights of vulnerable groups.

The National Programme for Agricultural Investment and Food Security (*Programme national d'investissement agricole et de sécurité alimentaire, PNIASA*) initiated in 2008 and designated as a priority in national policies and in the PRSP, establishes the right to food as a central pillar of the strategy for the realisation of food security. While the document remains vague concerning measures envisioned in order to guarantee and apply the various dimensions of the right to food, it is at least encouraging that authorities recognise its importance.

In 2007, the government also enacted the Interim Programme for the Protection and Promotion of Human Rights (*Programme intérimaire de protection et de promotion des droites de l'homme, PIPPDH*), which includes *inter alia* a training programme on human rights and the creation of a resource and information centre. It also aims to increase civil society organisations' action capabilities and the participation of social movements in political and economic life. Furthermore, a National Human Rights Commission (*Commission nationale des droits de l'homme, CNDH*) has been in existence for more than twenty years and is responsible for promoting human rights, in particular through training programmes for the members of professions most concerned.

It can nonetheless be regretted that none of these policies focus on effective implementation of the Togolese government's commitments regarding human rights, resulting from its ratification of international treaties such as the ICESCR. It is also imperious for the right to food to be a part of a genuine global strategy for the promotion of human rights and state accountability, grounded in decentralised decisions and actual involvement of the communities in implementation processes.

Thus, the main challenges for Togo involve ensuring the implementation of the treaties guaranteeing the right to food ratified by Togo, conciliating customary and written law and changing the decision makers as well as the population's mentalities, so that the right to food is finally considered a guaranteed and enforceable right for every person.

Case Study Togo (ANoRF-Togo, 2011)

Case Study: Uganda¹²²

In August 2001, the Ugandan army forcefully evicted more than 2,000 people from their land in the Mubende district to make way for a vast coffee plantation operated by Kaweri Coffee Plantation Ltd, a subsidiary of the Hamburg-based Neumann KaffeeGruppe. According to testimonies received by FIAN, peoples' houses were bulldozed, fields were laid waste, all the belongings of the local population were looted and the evictees had to leave their land at gunpoint. To this day, the evictees continue to suffer from the loss of their land.

Since the time of their eviction, most of the displaced population have been living at the edge of the plantation in makeshift homes they have constructed there. In order to sustain their livelihoods, some evictees have been able to use nearby land for temporary small-scale farming, but this is insufficient to provide their families with adequate food. Moreover, because of the lack of income ensuing from these peoples' situation, the number of children who can attend secondary school has decreased.

The displaced citizens have been filing complaints against the Ugandan government and the Kaweri Coffee Plantation since 2002, demanding compensation and restitution of their land. However, the trial to be held at Nakawa High Court in Kampala has been systematically delayed. In nine years the Court's investigations have not made any substantial progress and the case is still pending.

On 15 June 2009 the evictees, who joined forces under the banner 'Wake Up and Fight for Your Rights', filed a complaint with the support of FIAN to the German National Contact Point (NCP) of the OECD Guidelines for Multinational Enterprises. They claimed that Neumann KaffeeGruppe had breached OECD Guidelines through its involvement in the destruction of property without compensation to the people concerned, its rejection of any dialogue with the people concerned and obstruction of court proceedings and of attempts to reach an extrajudicial settlement.

It took one and a half years after the complaint had been lodged before the first and (surprisingly) only joint meeting took place between the NCP, Neumann KaffeeGruppe representatives and the evictees. The company did not take part in talks initiated in 2010 by the Ugandan Attorney General to negotiate an extrajudicial agreement, nor did its representatives attend the last two court dates.

In April 2011, the NCP declared the closure of the complaint process against Neumann KaffeeGruppe. This is particularly inappropriate at a time when it is necessary to maintain international attention on the case and encourage mediation between the parties that could lead to a fair and sustainable solution.

The final declaration is clearly biased in favour of Neumann KaffeeGruppe and, adding insult to injury, the NCP calls on Wake Up and Fight for Your Rights and FIAN to stop public criticism of the eviction and its consequences.

Both the evictees and FIAN do not accept these demands to hold back information for the public in relation to human rights violations. Thus, campaigning will carry on in order to raise

¹²² Anton Pieper, 2011, FIAN International

awareness about the severe human rights violations linked to the forced evictions in Mubende and their consequences for the concerned population's right to food. Several activities in 2011 aimed to increase the pressure both on the Ugandan government and on Neumann KaffeeGruppe. Local and international efforts are basically oriented towards supporting people in claiming their rights by holding state and private actors accountable under international human rights law.

This will hopefully encourage the rights-holders not to give up their fight for justice and eventually lead to fair and just procedures that will ensure adequate compensation and restitution of land rights.

Case Study - Uganda (Anton Pieper, 2011, FIAN International)

Asia : Asia is a contradiction: containing more than half the world's population; it boasts high levels of wealth and the highest rates of economic growth in the world and produces 90% of the world's rice; nevertheless the continent is also home to most of the world's hungry people: according to the FAO, 578 million people currently suffer from chronic hunger and malnutrition on the continent, far higher than any other.¹²³ There is also wide variation in the current status of the right to food within Asia : for example, while the Supreme Court of Nepal has recently made a landmark decision in favour of the enshrining the justiciability of the right to food (i.e. the right to food can be claimed in a court of law) in their national constitution, farmers in China are still struggling to see their right to land respected, while in Malaysia, the palm oil industry still threatens the basic rights of indigenous communities.¹²⁴ The main reason experts have given for right to food violations in Asia is the lack of accountability of states and ineffective judicial recourse mechanisms. Unlike the Americas, Europe and Africa, Asia currently has no regional human rights institution. The Association of South East Asian Nations (ASEAN) Intergovernmental Commission on Human Rights was inaugurated in 2009, but this has been widely criticised by civil society organisations as ineffective.¹²⁵ In addition, when attempting to claim rights through at the national level, delays and political interference are common, limiting the results that can be gained through these mechanisms and sometimes putting claimants at risk.¹²⁶

Case Study: China¹²⁷

Throughout the change and upheaval of past decades, China's rural communities have remained at the bottom of the country's development hierarchy. While China now claims near self-sufficiency in national food production, growing rural-urban disparity has led to increasing vulnerability for the millions of people who depend on small-scale agriculture for their basic food and nutrition, particularly in the far-western regions of the country. As urban China has been transformed by economic growth, in the countryside farmers must still bear hardships, or more literally "eat bitterness" (*chi ku*).

¹²³ Samdup, 2011

¹²⁴ Golay, 2011

¹²⁵ Samdup, 2011

¹²⁶ Samdup, 2011

¹²⁷ Rights and Democracy, 2011 (in Right to Food and Nutrition Watch, 2011)

In rural China, access to adequate food is inextricably linked to access to land. According to the UN Special Rapporteur on the Right to Food, China has lost 8.2 million hectares of arable land since 1997. While this is due partly to climate change and natural disasters, it is also true that large swathes of the countryside have been transformed by state-led policies in support of urbanisation, infrastructure and industrial development. As a result, more than 50 million farmers have been displaced from their land over the past 20 years, according to official sources. Land is either requisitioned by the state (*zheng di*) or occupied by industrial ventures, often illegally. Speculative land acquisitions by government officials are also widespread, inspired by the rising value of land in China.

Compensation for those evicted is nearly always inadequate, based on agricultural yields rather than the market value of the land. Battles over land seizures and compensation arrangements are common and often violent.

In this context, access to justice for small farmers is highly problematic. Even though China is party to the International Covenant on Economic, Social and Cultural Rights, the capacity of Chinese farmers to defend their interests and claim their rights is constrained by a lack of civil and political rights, poverty and unequal social status. Many farmers lack sufficient land documentation, rendering judicial redress illusory. Moreover, there is no independent judiciary in China and few evicted farmers can afford lawyer fees. Even if a farmer has the funds to take his or her case to court, convincing the court to accept the case, disentangling the myriad of complex compensation regulations and keeping local government officials from interfering in the process present serious obstacles.

These circumstances often lead farmers to turn to petitioning (*xinfangzhidu*) as a means to claim their rights. Petitioning is a process protected in Article 41 of the Chinese Constitution whereby citizens, either individually or collectively, make appeals directly to authorities in an effort to obtain remedy for grievances or complaints against local officials. In theory, the right to petition is viewed as a kind of check-and-balance mechanism that provides some degree of state accountability. However, in practice the system is slow and ineffective. Moreover, when farmers appeal to central authorities in Beijing, they are met with bureaucratic delays, harassment and pressure to take their grievance back down to the local level where they confront vengeful reactions from officials who routinely inflict violence upon the “trouble makers”.

And yet Chinese farmers continue to speak out for their rights, demonstrating a great degree of courage, tenacity and imagination in extremely difficult circumstances. Their fight for security of land-use rights is a fight for their right to food and also for the stability and viability of rural China.

Case Study - China (Rights and Democracy, quoted in Right to Food and Nutrition Watch, 2011)

Case Study : Indonesia¹²⁸

In Indonesia, the expansion of state and privately owned rubber and palm oil plantations is increasingly impacting on the rights of peasants. Forced evictions are occurring in nearly every province, frequently resulting in the criminalisation of peasants.

In the case of the 28-year long land dispute concerning Rengas, in the South Sumatra Province,

¹²⁸ Mann, 2011 (in Right to Food and Nutrition Watch, 2011)

villagers are denied access to their own land as a plantation company attempts to claim 2,386 hectares of fertile land for the production of sugar cane. According to La Via Campesina (LVC) - the global human rights campaigning NGO reporting on the case - in 2009, peasants who resisted the land grab were victims of threats and violence by the police. Their actions remained unpunished.

The roots of this case and others can be traced back to complex and unfair land titling schemes that are particularly discriminatory against vulnerable groups, including the poor and indigenous peoples. 60% of land ownership in Indonesia is informal and while Article 28 of the Indonesian Constitution of 1945 enshrines peoples' right to a decent livelihood and the Basic Agrarian Law of 1960 incorporates individual rights to ownership and use of land and communitarian rights; these commitments are not recognised in practice and are subject to corruption and bribery at various levels of administration. Compounding this, since 2004 peasants have been criminalised under the new 'Plantation Law' which sanctioned the incarceration of those who unwittingly trespass on plantation land. Indigenous peoples who rely on these lands to collect wood and other resources such as wild fruits and medicinal plants are particularly affected.

Case Study - Indonesia (Alana Mann, 2011)

Latin America & the Caribbean : The fight against hunger and its causes in Latin America and the Caribbean is a daily one for millions of men, women and children. Nevertheless, following a long tradition of social struggles against authoritarian rulers to claim respect for human rights, a growing segment of the population most affected by hunger and poverty, especially peasant and indigenous communities, has developed movements to strive for the realisation of their rights, including the right to food.¹²⁹ While many of these efforts continue to be repressed, significant advances have been made, especially in the recognition of the right to adequate food in national legal frameworks, for example in Bolivia and Ecuador.¹³⁰ A human rights approach has also been incorporated into national policies and plans for food and nutrition security in Haiti. Meanwhile, the Inter-American Commission on Human Rights (IACHR) has explicitly asked states to suspend mining projects that threaten indigenous peoples' right to food (such as the Marlin mine in Guatemala), showing a promising move in the right direction towards ensuring states are held accountable for any right to food violations they are responsible for within and beyond their borders.¹³¹ Despite a discouraging reaction from states in the continent and the need for constant pressure to fight for accountability, the outlook on the future of the right to food looks positive in Latin America.

¹²⁹ Wolpold-Bosien, 2011

¹³⁰ Wolpold-Bosien, 2011

¹³¹ Wolpold-Bosien, 2011

Case Study: Ecuador¹³²

The Ecuadorian Constitution, adopted in 2008, incorporates the right to adequate food within Article 13 of the 'Rights of the Good Way of Living' (*Derechos del Buen Vivir*), or *SumakKawsay* in Quechua, which defines it as “the right of persons and community groups to have a safe and permanent access to healthy, sufficient and nutritional food, preferably produced locally and in keeping with their various identities and cultural traditions”. Article 13 also states that “the Ecuadorian State shall promote food sovereignty”. The Constitution thus aims to ensure cultural appropriateness and acceptability, one of the features of the right to adequate food and enshrines this right as part of the Rights of the Good Way of Living.

Another existing legal instrument is the Organic Law on Food Sovereignty (*Ley Orgánica del Régimen de la Soberanía Alimentaria, LORSA*), which was approved in 2009 and entered into force on 5 May of the same year. Based on the concepts of multidimensionality, intersectionality and participation, this law guarantees access to and use of water and land, the protection of biodiversity, the promotion of production, marketing and supply of food, as well as consumption and nutrition, among other relevant issues.

Despite the existence of this legal framework, the *de facto* situation is very different: the international food system is dominated for the most part by transnational corporations increasingly involved in the means of production, processing and distribution of food through their control of the seeds, agricultural inputs, production processes and supermarkets. This has created critical structural limitations impeding the full realisation of the right to adequate food of small peasants, who face marginalisation or even exclusion.

Widespread export-oriented agricultural production has led to a serious shortage of basic foodstuffs for national consumption, such as grain, flour, dairy products, eggs and other animal products, which has left local populations without food and rural economies wholly unprotected.

Another compounding factor is the concentration of land and water in the hands of a few people. In the case of Ecuador, a quarter of the production units (*Unidad Primaria de Atención* or *UPAs* in Spanish) occupy just 1% of the arable land, while larger properties greater than 100 hectares, which represent only 2% of the total UPAS, account for 43% of all arable land use. Likewise, access to water is concentrated within the agro-export sector, which holds access to 67% of irrigation water, while the vast majority of the peasant population (86%) has access to just 22% of irrigation water for their production purposes. The agro-export sector is also reportedly the largest polluter of water sources.

Based on the current Constitution, the State has initiated programmes, such as the National Plan for the Good Way of Living (*Plan Nacional para el Buen Vivir*), school and community food programmes, and through the Land and Territory Plan (*Plan Tierras y Territorio*), policies pertaining to access to land and water. Nonetheless, civil society has yet to participate in these initiatives or have their collective demands incorporated into these laws, policies and programmes.

¹³² Flores, 2011, FIAN Ecuador (in *Right to Food and Nutrition Watch*, 2011)

These circumstances have created tension between government and civil society. Among other factors, the absence of genuine agrarian reform benefitting small and medium sized producers and aimed at overcoming the structural causes of hunger and malnutrition has contributed to this situation. The lack of regulation in line with international and constitutional human rights standards for the equitable access to and use of water and land has led to this tension. Additionally, the limited scope and quality of food programmes, including the lack of timely delivery to those most in need, are also to blame. Another fundamental contentious issue is the lack of inclusion of civil society proposals in state policies. Despite broad judicial guarantees enshrining the right to adequate food in the Constitution, these tensions have resulted in persecution by the national government against human rights defenders. This has led some organisations to accuse the government of only representing the interests of the economically powerful sectors of society.

A change in the style of governance and a reorientation of the current model of development towards one that is consistent with the concept of *Buen Vivir*, the implantation of a truly comprehensive agrarian reform to strengthen rural economies, and the constructive and critical participation of social organisations are among the recommendations put forth by FIAN Ecuador in order to achieve the right to adequate food, food sovereignty and autonomy, and the creation of a real plurinational State.

Case Study - Ecuador (Enith Flores, 2011, FIAN Ecuador)

Case Study: Haiti¹³³

Prior to the devastating earthquake that hit Haiti in January 2010, human rights organisations, peasant groups and certain state institutions notably the National Coordination on Food Security (*Coordination Nationale de la Sécurité Alimentaire, CNSA*) were raising awareness of the right to food and advocating for stronger legislative and institutional mechanisms to protect, promote and fulfil this right based on Article 22 of the Haitian Constitution. They were working increasingly together with political actors seeking to advance food security and eradicate pervasive hunger in the country.

In November 2009, a coalition of 16 civil society organisations led by Haiti's national human rights institution (*Office de la Protection du Citoyen*), submitted a report for Haiti's Universal Periodic Review by the UN Human Rights Council. The report gave significant attention to the right to food and water. In addition, it recommended that the Haitian Parliament adopt framework legislation on the right to food to improve justiciability of the right and thus strengthen the State's institutional capacity to fight hunger.

Around the same time, Haitian civil society organisations launched a campaign calling for Haiti to ratify the International Covenant on Economic, Social and Cultural Rights (ICESCR). A coalition was set up and alliances were built, with government officials and members of Parliament to support the ratification. The earthquake brought this campaign to a sudden halt and the general election that was scheduled to be held in February 2010 was postponed. As a result, both the Senate and House of Deputies no longer had quorum to

¹³³ Lauren Ravon, 2011, Rights & Democracy (in *Right to Food and Nutrition Watch*, 2011)

adopt new legislation. While the Senate continued to function with 10 Senators, the House of Deputies was entirely disbanded as of June 2010. The country's judicial system, which was already in serious need of reform, literally collapsed as a result of the earthquake. Given this institutional void, advocacy initiatives to improve the justiciability of the right to food had to be put on hold.

The rural economy was already facing considerable difficulties linked to the agricultural liberalisation process and the lack of accompanying safeguard measures. Extremely low tariffs applied by the State for food imports, even though WTO agreements permit much higher rates, resulted in a glut of cheap food entering the country and destroying the livelihoods of many peasant farmers. As a result, Haiti, which was once self-sufficient in food production, now produces significantly less domestically and relies upon imports for almost half the food it needs.

Despite the fragile political and economic situation in Haiti, some advances have been made. Thanks to civil society advocacy efforts, a national food and nutrition policy (*Plan National de la Sécurité Alimentaire et Nutritionnelle*), which includes specific references to the right to food, was drafted by the CNSA and subsequently endorsed by the Ministry of Agriculture. During the Committee on World Food Security's annual conference at the UN Food and Agriculture Organisation in October 2010, Haiti's Minister of Agriculture, Mr Joanas Gué, acknowledged these positive steps and announced the government's intention to maintain a human rights perspective for the development of policies to end hunger.

With the new president and a new legislature installed in 2011, civil society has resumed its advocacy efforts on behalf of the national food and nutrition policy, framework legislation and ratification of ICESCR. Although it remains unclear how the new government will be able to respond, given its weak institutions and multiple political challenges, the renewed efforts are small but important steps towards ensuring state accountability for the right to food. Hopefully, they will open the door to a range of initiatives allowing the people of Haiti to claim their human right to food.

Case Study - Haiti (Lauren Ravon, 2011, Rights & Democracy)

Europe : When thinking about violations of the right to food and nutrition, Europe is not the continent that comes to mind. However, it must not be forgotten that richer countries not immune to right to food violations even within their own borders: for while the figures are perhaps not as alarming as for the other continents mentioned, there are still many people in Europe for whom the right has not been realised for all. For example, Germany has been criticised for its welfare benefits for children of poor families, which are insufficient for a well-balanced diet, while in Switzerland emergency social assistance for vulnerable groups is not enough to allow a decent living.¹³⁴ One of the disturbing trends that has been observed in Europe has been one of a growing xenophobia towards asylum seekers and other undocumented migrants, with their rights often being deliberately neglected, including being deprived of the possibility of earning a living and many do not have access to sufficient alternative assistance that would allow them access to enough food for a proper diet. European

¹³⁴ Oenema, 2011

countries are also more likely to be in violation of their extraterritorial obligations regarding the actions of transnational companies based out of their countries (e.g. the German coffee company, Neumann KaffeeGruppe, and the evictions of local farmers in Uganda) and regarding their involvement in trade policies, being the world's largest exporter and importer of agricultural products (for example the Common Agricultural Policy, CAP, has come in for particular criticism for its impact on smallholder agricultural and food systems in southern countries.¹³⁵

Switzerland¹³⁶

The French-speaking Swiss Coalition for Economic, Social and Cultural Rights was established in October 2009 at the instigation of two organisations: FIAN Switzerland and the Youth Resource Centre on Human Rights (CODAP). The main goal of this coalition has been to review the situation of economic, social and cultural rights (ESCR) in the French-speaking region of Switzerland in order to complement the parallel report submitted by the national coalition for Switzerland's examination by the UN Committee on ESCR in November 2010. A long awareness-raising campaign with human rights organisations was carried out to prepare a parallel report which reflects the local realities as closely as possible. This work gave rise to a participatory report towards which more than thirty associations and labour unions collaborated. This report is an essential collective tool that provides a thorough account of the state of affairs of ESCR in the French-speaking part of Switzerland.

Although Switzerland has been a party to the International Covenant on ESCR since 1992, the Committee's experts highlighted the country's lack of compliance with its engagements. They regretted Switzerland's persistence in considering that most of the Covenant's provisions merely constitute programmatic objectives and social goals rather than legally binding obligations. The consequence of this position is that some of these provisions can neither take effect as domestic law, nor be invoked before a Swiss Court.

The 35 subjects on which the experts issued recommendations reflect their concerns about undocumented people, who are excluded from social assistance in some cantons and instead can only rely on emergency assistance of about CHF 10 per day, an unsuitable amount for the realisation of their rights, particularly the right to adequate food. The Committee also underlined the neglect with which many asylum seekers are treated, and showed concern about the gender-related wage gap for work of equal value, the disregard for the right to strike, as well as about the unfair dismissals of workers belonging to a labour union. Shocked by the persistence of extreme poverty in Switzerland, the Committee called for the revision of the national anti-poverty strategy.

Switzerland was also subject to reproach concerning its extraterritorial obligations when negotiating and concluding trade and investment agreements with partner countries, since some of those have already compromised the rights to health and to adequate food in various third-party countries. Furthermore, the Committee repeatedly raised the issue of growing xenophobia and discrimination in Switzerland, particularly towards the Roma, and requested that authorities adopt strategies to protect cultural diversity. Finally, the Committee encouraged Switzerland to ratify the Optional Protocol to the ICESCR.

¹³⁵ Oenema, 2011

¹³⁶ Margot Brogniart, 2011 FIAN Switzerland (*in Right to Food and Nutrition Watch, 2011*)

Following Switzerland's examination, the civil society coalitions, anxious to make sure that the Committee's recommendations are not forgotten, focussed on their dissemination and launched a campaign to promote them and encourage their implementation by authorities, thus ensuring the effective realisation of ESCR in Switzerland. This campaign includes developing a manual for the implementation of these recommendations and a number of workshops for the authorities.

At the same time, a study on the right to food in Geneva was carried out by a group of students from the Graduate Institute of International and Development Studies in partnership with FIAN Switzerland. This report describes the situation of the right to food as well as laws, policies and programmes that encourage or impede the exercise of the right to food in Geneva. It also identifies the vulnerable groups (the unemployed, single-parent families, "the working poor", and undocumented persons) who resort to food aid, and proposes concrete recommendations to improve their situation. Based on this study, FIAN Switzerland is also going to launch an awareness-raising and advocacy campaign targeting the authorities, concerning the right to food.

Case Study - Switzerland (Margot Brogniart, FIAN Switzerland)

11. What Can Organisations, such as FIAN, do to enable the Realisation of the Right to Adequate Food?

The main reason why right to food violations have been allowed to occur is the lack of accountability of states and inter-state organisations for their actions or omissions in relation to the realisation or the protection of the right to food. The suffering outlined in the specific cases studies in previous sections of this booklet; and the persistent chronic hunger and malnutrition that is suffered by nearly 1 billion people worldwide despite there being globally enough food for all, are a consequence of the fact that despite the signing and ratification of international treaties, many states and organisations have been able to flout their obligations with impunity.

The vital task for organisations, such as FIAN, wishing to enable the right to food to be realised for all, is therefore to hold state authorities and organisations to account. As Oenema, Valente and Walter point out in their 2011 edition of the *Right to Food and Nutrition Watch*, it is all very well and good that the right to food is agreed as a human right in political and academic discourse, but without accountability of those who are responsible for upholding this right, the concept has little value. They assert that "*if duty-bearers cannot be held accountable for performing in accordance with their obligations, this right cannot be enforced; and if a right cannot be enforced, then it can no longer be called a right*".¹³⁷ Moreover, they warn that if states are allowed to continue to ignore their obligations and can commit right to food violations with impunity, then such violations will most probably be repeated over and over again and declarations of political will to fight hunger and malnutrition will remain ineffective.¹³⁸ Organisations can hold states to account through advocacy to keep the pressure on states and by ensuring that violations of the right to food are highlighted and kept visible to the international community.

¹³⁷ Oenema, Valente and Walter, 2011

¹³⁸ Oenema, Valente and Walter, 2011

The other important task for organisations such as FIAN is to enable the victims of right to food violations to claim their rights owed to them by their states. One of the biggest challenges that victims face is that in their experience, authorities have rarely listened to them and they often feel, justifiably, that the right to food is something abstract, not something that can make a difference in their everyday lives. Therefore providing assistance for victims to avail themselves of their legal systems of redress is an important role that FIAN can play. However, it is essential to also ensure the participation of those affected by the violations in the campaign to realise the right to food to ensure that the process is an active one and that people are empowered to demand the fulfilment of their rights, rather than a passive process where people are once again told what to expect in terms of their rights by an external authority. This will ensure that they will feel able to continue to assert their rights in the future.

This section will outline some of the key activities that organisations can do in order to work towards the goal of ensuring the right to food is realised for all. This will be looked at in the frame of the work that FIAN International (and FIAN Rajasthan, on a more local level within India) has been undertaking for the last 30 years. FIAN's (Foodfirst Information and Action Network) mission is: "*to expose violations of people's right to food wherever they occur worldwide, to oppose unjust and oppressive practices that prevent people from feeding themselves and to strive to secure people's access to the resources that they need in order to feed themselves, now and in the future*".¹³⁹

Identification and Documentation of Right to Food violations

One of FIAN's main activities involves the identification and documentation of right to food violations worldwide. This is undertaken by each of the country and regional offices (e.g. by FIAN Rajasthan for violations occurring in the relevant region). FIAN undertakes Fact Finding and Research Missions to locations of suspected right to food violations. FIAN officers then interview people who are threatened or who have been affected by violations of their right to food and verify the facts of a situation. These are documented, then followed-up by long-term case-work by local FIAN action groups and they are then published on FIAN's website, plus a selection are included in the annual well-renowned publication *'Right to Food and Nutrition Watch'*.¹⁴⁰ To date around 400 individual cases have been documented by FIAN over the past two decades. This activity is carried out primarily to ensure that no violations can be 'hidden' by states hoping to avoid censure for failing in their obligation to ensure the right to food for all and to bring the plight of these victims to the attention of the international community. FIAN also uses these documented cases to put pressure on states, international organisations and private actors at both the national and international levels by reminding them of their obligation to prevent these violations from happening.

Political Advocacy and Taking a Human Rights Based Approach

Holding States to Account at the National Level : In close cooperation with the affected communities, FIAN approaches responsible national authorities itself to highlight and lodge complaints about breaches of right to food obligations.¹⁴¹ Such authorities could include local or

¹³⁹ FIAN International, 2012

¹⁴⁰ FIAN International, 2012

¹⁴¹ FIAN International, 2012

regional government departments in charge of a related policy or programme, e.g. agrarian reform, or services, e.g. healthcare services; national government institutions, such as the Ministry of Agriculture, Ministry of Health, or Ministry of Labour/Employment; or the national congress or parliament itself. FIAN sends letters and requests for information to the authorities, launches petitions, organises protests and holds public hearings and meetings with representatives.¹⁴² FIAN also lodges complaints with national human rights institutions and ombudsman systems (where they exist), such as the Public Ministry, Defensoresdel Pueblo (in Latin America), or national human rights rapporteurs.¹⁴³

FIAN also uses the FAO's 2004 *Right to Food Guidelines* to monitor states' right to food policies and advocate for the effective implementation and improvement of existing systems and for the establishment of new, improved, systems with the aim of ensuring that the right to food is politically and legally enforceable everywhere for everyone.¹⁴⁴ The *Guidelines* describe in detail what measures states should implement and what they should avoid and thus they are valuable tool to assess states' performance as regards their realisation of the right to food.¹⁴⁵

Fighting for Accountability at the International Level : Meanwhile on the request of those affected by violations, FIAN also uses international human rights channels to register complaints, such as presenting parallel reports to the UN Commission on Human Rights (UNCHR) in Geneva, that coincide with the official country reports and aim to reveal the truth of the situation; and submitting reports to the Special Rapporteur on the Right to Food.¹⁴⁶ FIAN also mobilises members and supporters worldwide to send out Urgent Action and Rapid Response protest letters.¹⁴⁷

FIAN endeavours to ensure that both international organisations and states deal with the issue of food security by taking a rights-based approach, which involves emphasising individual entitlements and redress mechanisms. This is to ensure that the issue becomes non-negotiable and so states are less able to ignore chronic hunger as simply a regrettable consequence of lack of development or of unfavourable climatic events; it is important that states realise their obligations in the face of these challenges.

Other organisations operating in this arena are also trying to influence the international human rights system, for example La Via Campesina (LVC), the global human rights organisation campaigning for the rights of peasants, have combined with allied organisations to promote the adoption of *'The Declaration of Rights of Peasants Women and Men'*, which calls for a new framework within the United Nations human rights system that would provide clear recognition of the rights of peasants, including mechanisms for addressing violations and discriminations.¹⁴⁸

Successes : FIAN has had some notable successes arising from its activities, with major triumphs including the 1999 inclusion of General Comment 12 of the International Covenant of Economic, Social and Cultural Rights as an authoritative legal interpretation of the right to

¹⁴² FIAN Rajasthan, 2011

¹⁴³ FIAN Rajasthan, 2011

¹⁴⁴ FIAN International, 2012

¹⁴⁵ FIAN International, 2012

¹⁴⁶ FIAN Rajasthan, 2011

¹⁴⁷ FIAN International, 2012

¹⁴⁸ Mann, 2011

food under international law and the adoption of the Right to Food Guidelines by FAO member states in 2004, in both of which FIAN was prominently involved. FIAN has also played a major role in the recent adoption of the Optional Protocol ICESCR, which will come into force once it is ratified by 10 states.¹⁴⁹

Media Campaigns : In order to empower communities themselves and their representatives in social movements and NGOs to hold states accountable, targeted information campaigns and awareness raising on the right to food are also at the core of FIAN's work. Most victims of right to food violations do not know about their rights or about the state's obligations to respect, protect and fulfil human rights and are therefore unable to claim their right to food.¹⁵⁰ It is thus very important to provide up to date information on what peoples' rights are in relation to the right to food, what states' obligations are, and the official recommendations for how they should implement measures to ensure the right to food is realised for all. In this way, members of civil society are motivated to join in the fight against human rights violations and they are kept informed and can use the information in their own endeavours to pressurise state authorities to take responsibility.¹⁵¹

In order to create a global focus for advocacy around the issue of the right to food, the FAO announced in 1979 that from 1981 onwards, the 16th October would be named as 'World Food Day'.¹⁵² The FAO also launched the '1 billion hungry project' in 2011, an online petition that aims to encourage signatures to the anti-hunger petition by reaching out to people through social media.¹⁵³

Legal Assistance

In order for victims to claim their rights and/or obtain redress for the violations they have suffered, they can apply through a number of channels, including making claims to ordinary national courts, national constitutional courts or regional courts (Inter American, African, European); or making complaints to other UN international mechanisms.¹⁵⁴ However, victims are often unaware of their rights and of the processes by which they can make these complaints and claims.

As well as targeted advocacy work and documentation of right to food violations, FIAN therefore uses its human rights expertise to provide practical assistance to the victims of these violations to enable them to claim their rights and to use existing recourse mechanisms to obtain legal redress, where it is possible to do so. FIAN does not wish to take the lead in the fight against the violations, but simply wishes to assist the victims in claiming their rights. FIAN therefore works to improve the capacity of local social movements and community members to enable them to make legal claims on their own behalf. Activities include running training workshops for community members, providing specific human rights training to lawyers representing communities and even offering human rights sensitisation training for lawyers, judges and other officials. FIAN also supports the establishment of cooperatives amongst the victims, as the numbers will provide more clout in court. Victims are then

¹⁴⁹ FIAN International, 2012

¹⁵⁰ Oenema, Valente and Walter, 2011

¹⁵¹ FIAN International, 2012

¹⁵² FAO, 2012

¹⁵³ FAO, 2012

¹⁵⁴ FIAN, Rajasthan, 2011

supported as they make legal petitions, lodge claims with courts and raise public civil suits and FIAN also pursues claims that communities have made to ensure they are responded to.¹⁵⁵

To improve the accountability of states, FIAN also runs a Justiciability Programme, which designs and promotes strategies to include the right to food within states' legislative systems where these are not already present or where the admissibility criteria are too stringent to allow victims to claim redress; and promotes mechanisms through which victims can make claims. The adoption of the Optional Protocol to the ICESCR was a success also of this programme within the international human rights legislation, with the Protocol guaranteeing the right of individuals to register complaints against violations of the right to food.¹⁵⁶

12. Investment in Agriculture for Poverty Reduction

Poverty Reduction

While work undoubtedly needs to be done to increase the accountability of states and international organisations, it is important to note that the right to food is intrinsically linked to the realisation of other human rights, including the right to employment and a sufficient income on which to live. Another important component in ensuring the right to food for all for generations to come is thus to also focus on reducing poverty across the developing world, as this is a significant reason behind much of the hunger in the world today and why the majority of victims of right to food violations continue to lack the power to speak up and claim their rights. The UN Special Rapporteur for the Right to Food, Olivier de Schutter has remarked that food availability is predominantly a household issue and thus increasing the incomes of poor households is an essential part of the journey to combatting hunger.¹⁵⁷

To do this, it has been acknowledged that states need to invest in agriculture, as the World Bank has reported that GDP growth originating from agriculture has been twice as effective in reducing poverty compared to GDP growth resulting from other growth.¹⁵⁸ Meanwhile in Africa for example, it has been found that investing 1 dollar in agriculture has three times the impact on poverty relief than investing that 1 dollar in another part of the economy.¹⁵⁹ However, it is important that this agricultural investment is directed at increasing the incomes of smallholder farmers and protecting them in the face of more powerful interests rather than increasing the incidence of large scale farms as increasing smallholder incomes will have a larger stimulation on local economies. As Ulrich Hoffman has pointed out in 2010: *“higher incomes for smallholders stimulate demand for goods and services from local sellers and service providers, whereas when large estates increase their revenue, most of it is spent on imported inputs and machinery, and much less trickles down to local traders”*.¹⁶⁰

Increasing global food production is also hugely important for long term sustainability, to ensure that food supply continues to meet world needs, taking into account population growth projections and dietary changes. It has been estimated that in order to keep up with global demand, there will need to be a 70% increase in agricultural production by 2050.¹⁶¹

¹⁵⁵ FIAN, Rajasthan, 2011

¹⁵⁶ FIAN International, 2012

¹⁵⁷ de Schutter, 2010

¹⁵⁸ World Bank Development Report, 2008, in de Schutter, 2010

¹⁵⁹ Akplogan-Dossa, 2011

¹⁶⁰ Hoffman, 2010, in de Schutter, 2010

¹⁶¹ Burney et al, in de Schutter, 2010

Agroecology

De Schutter has argued that state's agricultural investment should be directed towards agroecological practices, which he claims have the power to both increase agricultural production and to raise incomes specifically for smallholder farmers, whilst being environmentally sustainable and helping to reverse degradation of ecosystems; and also able to mitigate the impacts of climatic changes, reducing the threat these pose to maintaining sufficient food supplies in the future.

In a report published in 2010, Olivier de Schutter argues that agroecology can be shown to directly aid the realisation of the right to food by improving food availability, accessibility and adequacy, whilst also improving the sustainability of the food system and increasing farmer participation. He argues that agroecology increases food availability, by improving productivity at the farm level and offering the possibility that if sufficiently supported, adopting such practices can double food production in entire regions within 10 years.¹⁶² These techniques can also increase accessibility to food, as the techniques increase rural smallholder incomes by improving each farmer's yield with minimal upfront inputs needed and dependence on expensive external resources reduced, for example through the promotion of the use of nitrogen fixing trees on farms, reducing the need for expensive synthetic fertilisers.¹⁶³ Improvement in local incomes also simultaneously stimulates local markets; and the fact that the techniques are more labour-intensive than machine-intensive means the availability of rural employment is increased. The 'adequacy' of the food available is also improved as agroecology promotes nutritional diversity in farm crops and thus can help improve diets.¹⁶⁴

Use of agroecological practices also helps improve the sustainability of agricultural production as they help protect soil from degradation and can contribute to adapting to climate change. For example the technique of crop breeding can provide new crop varieties better adapted to drought resistance and with shorter growing cycles that enable farmers to continue farming in regions where the growing season is shortening.¹⁶⁵ Meanwhile water harvesting, also promoted in agroecology, can allow cultivation of abandoned and degraded lands in dryland areas, likely to become increasingly important as shifting rainfall patterns lead to the drying of many formerly cultivated regions of the world.¹⁶⁶ De Schutter also emphasises that agroecology involves a high level of farmer participation, an important factor in the right to food, as *“it is based on techniques that are not delivered top-down but developed on the basis of farmers' knowledge and experimentation”*.¹⁶⁷

GRAVIS's work in the Thar Desert, India

FIAN Rajasthan's partner organisation, GRAVIS (GraminVikasVigyanSamiti, or the Peoples' Centre for the Science of Rural Development) is an NGO working in rural western Rajasthan to implement such sustainable farming techniques with rural smallholder farmers in the Thar Desert of India. With its headquarters in Jodhpur and field centres dotted across the region, GRAVIS has been working in the area for the past 30 years. The techniques that they work

¹⁶² de Schutter, 2010

¹⁶³ de Schutter, 2010

¹⁶⁴ de Schutter, 2010

¹⁶⁵ de Schutter, 2010

¹⁶⁶ de Schutter, 2010

¹⁶⁷ de Schutter, 2010

with the communities to implement mainly include the encouragement of growing particular improved crop varieties; and revival of traditional technologies, such as Khadins (earthen bunds that stop water runoff and collect rain water on fields to irrigate crops), or water harvesting technologies such as taankas and naadis, modified slightly for increased effectiveness. Through these techniques, farmers gain access to the means to produce food (water for irrigation and improved fertile land) and they gain the ability to continue harvesting crops even through the anticipated and unpredicted dry periods. Improved yields also mean that farmers can grow surplus crops to sell at market in addition to that needed for their own subsistence, thus helping to improve their incomes. To improve nutrition in the remote villages GRAVIS also works with the communities to develop fruit orchards, vegetable gardens and horticultural units with specifically chosen plants and trees to ensure healthy diets. GRAVIS's work is improving the availability, accessibility and adequacy of food for the people of the Thar Desert. It is also increasing the ability of the communities' agriculture to deal with the uncertainties of the future, while utilising farmers' expertise and labour in all the projects. In addition to this, GRAVIS develops community organisations within the villages that can act as a collective pressure group on the local government institutions to ensure that these authorities fulfil their obligations regarding the right to food for people in their area. GRAVIS's work is thus aiding the ability of the people of the Thar to claim their right to food.

However, despite the work of GRAVIS and other NGOs implementing these techniques at the community level across the world, they need more institutional support from state authorities and the large international development organisations in order to make a difference on a large scale. De Schutter is insistent that states need to embrace investment in agroecological practices actively as they will not develop just by chance; it will take great political will and appropriate public policies that will create an enabling environment for it to develop.¹⁶⁸



GRAVIS supports communities to survive in the harsh conditions of the Thar Desert by providing access to water and developing sustainable agricultural practices, amongst other activities (Photo credit - GRAVIS)

13. Concluding Thoughts on the Right to Food

The Right to Food is a human right, protected under international law, which guarantees all people, regardless of age, gender, caste, religion, or any other demographic feature, the right to 'adequate' food, meaning enough food that is nutritionally sufficient for a healthy diet. It also guarantees the right for all to be able to feed themselves 'in dignity' and thus assures the right either to be able to produce food using natural resources, or to be able to purchase food. In the event that either of these situations is not present, the right to food requires that states have welfare systems in place to either provide the means to produce or to purchase food, or to

¹⁶⁸ de Schutter, 2010

provide food itself for those affected (but the latter option should be seen as a last resort).

The right to food has been enshrined in international law since the adoption of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966, which names states as primarily responsible for ensuring the right to food for all, both within their borders and for those internationally, who are affected by the actions or lack of actions (omissions) of the state or any state-sanctioned entity (e.g. transnational corporations). The ICESCR requires states to include the right to food in national constitutions and legislation. It also imposes three core obligations on states: the obligation to respect the right to food, the obligation to protect the right to food and the obligation to fulfil the right to food, which incorporates an obligation to facilitate and to provide access to food.

However, despite the ICESCR having 160 state parties at the time of writing and having been in existence for over 40 years, not all these parties have fulfilled their obligation to incorporate the right to food into national legislation or constitutions. This is a sign of the lack of urgency and priority that has been given to this issue, which has sadly resulted in the continued violation of the right to food for significant numbers of people worldwide. The existence of nearly 1 billion hungry people across the globe shows just how far the world still has to go before the right to food is realised for all. The UN FAO insists that incidents of chronic hunger and malnutrition are a violation of each state's obligation to ensure the right to food for all their citizens. Certain states have been particularly criticised for their participation in upholding agricultural trade treaties that directly obstruct the realisation of the right to food in other countries.

Acute hunger situations have also arisen from the direct actions of either state authorities or third parties, such as private companies, which have caused right to food violations, for which the blame is also attributed to the particular state or (states) involved. Meanwhile, there are also global trends that are either threatening or already causing violations of peoples' right to food on a large scale, including: land grabbing caused by globalization; international food speculation, which was hugely influential in causing the global food crises of 2008 and 2010; particular global development policies; climate change; and the increasing interest in biofuels to replace oil as a new energy source. States have been blamed for their lack of implementation of measures to mitigate the impacts of these trends on the vulnerable sections of their populations.

The status of the right to food in India has been particularly examined in this book, in which it was found that, while food production over the last 50 years has been sufficient to feed the country's vast population, all the indicators show an extremely food insecure population in which chronic hunger and even starvation persist for large sections of the population, with vulnerable sections of society such as women, children and members of the lower castes and tribes suffering more severely. Furthermore, disturbingly it has been shown that the growth rate in the growth rate of agricultural production over the last 20 years. However, this example showed that the situation can be complex as such high hunger levels exist despite the fact that the Indian food welfare system is one of the largest such examples in the world. It shows that merely creating the political machinery is not enough to ensure the right to food is realised for all; attention must be paid to the implementation of delivery systems, how well

they ensure equality of access to food and whether they truly include those who are most vulnerable within the systems. Indeed, since 2002, India's Supreme Court has also been extremely active in passing legislation in an attempt to improve access to food for vulnerable people across the country. However, despite the measures announced through what has become known as the *Right to Food Case*, the implementation of these measures in particular locations has hindered their progress in improving access to food. There is hope for the future, however, with the Indian Government's October 2012 announcement of its intention to finally incorporate the right to food explicitly within Indian law. Watch this space!

Overall it has been acknowledged that a major reason for the continued existence of right to food violations is the lack of accountability of states and international organisations responsible for ensuring the realisation of the right to food. Despite the existence of international human rights institutions whose remit is to police the right to food, too often cases do not come to their attention and perpetrators of right to food violations are able to continue with impunity. Organisations such as FIAN International, of which FIAN Rajasthan is a local branch, are working to increase this accountability; and to ensure that violations of the right to food are documented and that victims of right to food violations are able to claim their rights or claim redress from those responsible. Their work includes research into and documentation of cases of right to food violations; advocacy to increase awareness of right to food violations at national and international levels, including media awareness campaigns on the issue and organisation of training for authorities; and provision of legal assistance to victims of right to food violations. This work is vital to ensure that the pressure is maintained on those responsible so that, slowly but surely, all people are able to claim their human right to food. The UN Special Rapporteur on the Right to Food, Olivier de Schutter, also calls for such work to pressurise states into fulfilling their legal obligation to include the right to food explicitly within national constitutions and legislation.

In addition to holding states to account and ensuring they fulfil their obligations, support is needed from states and international organisations for investment in sustainable agroecological practices to improve agricultural productivity at the smallholder level and in so doing: increasing agricultural production, raising smallholder farmers' incomes, reducing their need for welfare from the state, stimulating local markets, whilst also improving the resilience of poor rural populations to climatic changes and thus increasing the sustainability of food production. The reality is that with an ever growing population, the world needs as much land as possible to be used productively to ensure that there is enough food for all, but the world is also facing increasing climatic challenges so agricultural production needs to shift to a more sustainable mode of production. To ensure that the right to food can be realised for all, the world's vast rural population needs to be able to exercise both their right to produce and to purchase food, for which they need agricultural investment from states and international organisations and protection of their land against threats from more powerful interests. In order to realise the right to food for all, states need to take an active role in fulfilling this, either directly or by supporting the actions of rural development NGOs who are currently completing this vital work on a small scale.

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FIAN Rajasthan is a Chapter of Food First Information Action Network (FIAN) India. Food first Information & Action Network, India, popularly known as (FIAN) is a registered national section of FIAN International. FIAN is an international human rights organisation working for progressive realisation of the right to adequate food, a human right as described in the International Covenant on Economic, Social and Cultural Rights. FIAN India is a network of several independent national FIAN chapters and coordination working in different federal states of the country. FIAN India is a grassroots oriented organisation without political or religious affiliations.

FIAN Rajasthan has been acting over the last four years and has been focusing its efforts on ensuring food security among mine-workers and drought impacted rural communities.

Gramin Vikas Vigyan Samiti (GRAVIS) or Center of People's Science for Rural Development is a non-governmental, voluntary organization that takes a Gandhian approach to rural development by working with the poor of the Thar Desert to enable them to help themselves. Since its inception in 1983, GRAVIS has worked with over 55,000 desert families across over 1,000 villages in Rajasthan reaching a population of over 1 million, and has established over 2,500 Community Based Organizations (CBOs). Through its dedicated field work, as well as its research and publications, GRAVIS has come to occupy a leading position amongst the voluntary organizations in the region.

Gravis

3/437, 3/458, MM Colony, Pal Road,
Jodhpur, 342008 Rajasthan, India.

Phones : 91 291 2785 317, 2785 116

Fax : 91 291 2785 116

Email : email@gravis.org.in

www.gravis.org.in

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